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## **1 ARTICLE XXVIII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994**

### **1.1 Text of Article XXVIII**

#### ***Article XXVIII\****

##### *Modification of Schedules*

1. On the first day of each three-year period, the first period beginning on 1 January 1958 (or on the first day of any other period\* that may be specified by the CONTRACTING PARTIES by two-thirds of the votes cast) a contracting party (hereafter in this Article referred to as the "applicant contracting party") may, by negotiation and agreement with any contracting party with which such concession was initially negotiated and with any other contracting party determined by the CONTRACTING PARTIES to have a principal supplying interest\* (which two preceding categories of contracting parties, together with the applicant contracting party, are in this Article hereinafter referred to as the "contracting parties primarily concerned"), and subject to consultation with any other contracting party determined by the CONTRACTING PARTIES to have a substantial interest\* in such concession, modify or withdraw a concession\* included in the appropriate schedule annexed to this Agreement.

2. In such negotiations and agreement, which may include provision for compensatory adjustment with respect to other products, the contracting parties concerned shall endeavour to maintain a general level of reciprocal and mutually advantageous concessions not less favourable to trade than that provided for in this Agreement prior to such negotiations.

3. (a) If agreement between the contracting parties primarily concerned cannot be reached before 1 January 1958 or before the expiration of a period envisaged in paragraph 1 of this Article, the contracting party which proposes to modify or withdraw the concession shall, nevertheless, be free to do so and if such action is taken any contracting party with which such concession was initially negotiated, any contracting party determined under paragraph 1 to have a principal supplying interest and any contracting party determined under paragraph 1 to have a substantial interest shall then be free not later than six months after such action is taken, to withdraw, upon the expiration of thirty days from the day on which written notice of such withdrawal is received by the CONTRACTING PARTIES, substantially equivalent concessions initially negotiated with the applicant contracting party.

(b) If agreement between the contracting parties primarily concerned is reached but any other contracting party determined under paragraph 1 of this Article to have a substantial interest is not satisfied, such other contracting party shall be free, not later than six months after action under such agreement is taken, to withdraw, upon the expiration of thirty days from the day on which written notice of such withdrawal is received by the CONTRACTING PARTIES, substantially equivalent concessions initially negotiated with the applicant contracting party.

4. The CONTRACTING PARTIES may, at any time, in special circumstances, authorize\* a contracting party to enter into negotiations for modification or withdrawal of a concession included in the appropriate Schedule annexed to this Agreement subject to the following procedures and conditions:

- (a) Such negotiations\* and any related consultations shall be conducted in accordance with the provisions of paragraph 1 and 2 of this Article.
- (b) If agreement between the contracting parties primarily concerned is reached in the negotiations, the provisions of paragraph 3 (b) of this Article shall apply.
- (c) If agreement between the contracting parties primarily concerned is not reached within a period of sixty days\* after negotiations have been authorized, or within such longer period as the CONTRACTING PARTIES may have prescribed, the applicant contracting party may refer the matter to the CONTRACTING PARTIES.
- (d) Upon such reference, the CONTRACTING PARTIES shall promptly examine the matter and submit their views to the contracting parties primarily concerned with the aim of achieving a settlement. If a settlement is reached, the provisions of paragraph 3 (b) shall apply as if agreement between the contracting parties primarily concerned had been reached. If no settlement is reached between the contracting parties primarily concerned, the applicant contracting party shall be free to modify or withdraw the concession, unless the CONTRACTING PARTIES determine that the applicant contracting party has unreasonably failed to offer adequate compensation.\* If such action is taken, any contracting party with which the concession was initially negotiated, any contracting party determined under paragraph 4 (a) to have a principal supplying interest and any contracting party determined under paragraph 4 (a) to have a substantial interest, shall be free, not later than six months after such action is taken, to modify or withdraw, upon the expiration of thirty days from the day on which written notice of such withdrawal is received by the CONTRACTING PARTIES, substantially equivalent concessions initially negotiated with applicant contracting party.

5. Before 1 January 1958 and before the end of any period envisaged in paragraph 1 a contracting party may elect by notifying the CONTRACTING PARTIES to reserve the right, for the duration of the next period, to modify the appropriate Schedule in accordance with the

procedures of paragraph 1 to 3. If a contracting party so elects, other contracting parties shall have the right, during the same period, to modify or withdraw, in accordance with the same procedures, concessions initially negotiated with that contracting party.

## 1.2 Text of note *ad* Article XXVIII

### ***Ad Article XXVIII***

The CONTRACTING PARTIES and each contracting party concerned should arrange to conduct the negotiations and consultations with the greatest possible secrecy in order to avoid premature disclosure of details of prospective tariff changes. The CONTRACTING PARTIES shall be informed immediately of all changes in national tariffs resulting from recourse to this Article.

#### *Paragraph 1*

1. If the CONTRACTING PARTIES specify a period other than a three-year period, a contracting party may act pursuant to paragraph 1 or paragraph 3 of Article XXVIII on the first day following the expiration of such other period and, unless the CONTRACTING PARTIES have again specified another period, subsequent periods will be three-year periods following the expiration of such specified period.

2. The provision that on 1 January 1958, and on other days determined pursuant to paragraph 1, a contracting party "may ... modify or withdraw a concession" means that on such day, and on the first day after the end of each period, the legal obligation of such contracting party under Article II is altered; it does not mean that the changes in its customs tariff should necessarily be made effective on that day. If a tariff change resulting from negotiations undertaken pursuant to this Article is delayed, the entry into force of any compensatory concessions may be similarly delayed.

3. Not earlier than six months, nor later than three months, prior to 1 January 1958, or to the termination date of any subsequent period, a contracting party wishing to modify or withdraw any concession embodied in the appropriate Schedule, should notify the CONTRACTING PARTIES to this effect. The CONTRACTING PARTIES shall then determine the contracting party or contracting parties with which the negotiations or consultations referred to in paragraph 1 shall take place. Any contracting party so determined shall participate in such negotiations or consultations with the applicant contracting party with the aim of reaching agreement before the end of the period. Any extension of the assured life of the Schedules shall relate to the Schedules as modified after such negotiations, in accordance with paragraphs 1, 2, and 3 of Article XXVIII. If the CONTRACTING PARTIES are arranging for multilateral tariff negotiations to take place within the period of six months before 1 January 1958, or before any other day determined pursuant to paragraph 1, they shall include in the arrangements for such negotiations suitable procedures for carrying out the negotiations referred to in this paragraph.

4. The object of providing for the participation in the negotiation of any contracting party with a principle supplying interest, in addition to any contracting party with which the concession was originally negotiated, is to ensure that a contracting party with a larger share in the trade affected by the concession than a contracting party with which the concession was originally negotiated shall have an effective opportunity to protect the contractual right which it enjoys under this Agreement. On the other hand, it is not intended that the scope of the negotiations should be such as to make negotiations and agreement under Article XXVIII unduly difficult nor to create complications in the application of this Article in the future to concessions which result from negotiations thereunder. Accordingly, the CONTRACTING PARTIES should only determine that a contracting party has a principal supplying interest if that contracting party has had, over a reasonable period of time prior to the negotiations, a larger share in the market of the applicant contracting party than a contracting party with which the concession was initially negotiated or would, in the judgement of the CONTRACTING PARTIES, have had such a share in the absence of discriminatory quantitative restrictions maintained by the applicant contracting party. It would therefore not be appropriate for the CONTRACTING PARTIES to determine that more than one contracting party, or in those

exceptional cases where there is near equality more than two contracting parties, had a principal supplying interest.

5. Notwithstanding the definition of a principal supplying interest in note 4 to paragraph 1, the CONTRACTING PARTIES may exceptionally determine that a contracting party has a principal supplying interest if the concession in question affects trade which constitutes a major part of the total exports of such contracting party.

6. It is not intended that provision for participation in the negotiations of any contracting party with a principal supplying interest, and for consultation with any contracting party having a substantial interest in the concession which the applicant contracting party is seeking to modify or withdraw, should have the effect that it should have to pay compensation or suffer retaliation greater than the withdrawal or modification sought, judged in the light of the conditions of trade at the time of the proposed withdrawal or modification, making allowance for any discriminatory quantitative restrictions maintained by the applicant contracting party.

7. The expression "substantial interest" is not capable of a precise definition and accordingly may present difficulties for the CONTRACTING PARTIES. It is, however, intended to be construed to cover only those contracting parties which have, or in the absence of discriminatory quantitative restrictions affecting their exports could reasonably be expected to have, a significant share in the market of the contracting party seeking to modify or withdraw the concession.

*Paragraph 4*

1. Any request for authorization to enter into negotiations shall be accompanied by all relevant statistical and other data. A decision on such request shall be made within thirty days of its submission.

2. It is recognized that to permit certain contracting parties, depending in large measure on a relatively small number of primary commodities and relying on the tariff as an important aid for furthering diversification of their economies or as an important source of revenue, normally to negotiate for the modification or withdrawal of concessions only under paragraph 1 of Article XXVIII, might cause them at such time to make modifications or withdrawals which in the long run would prove unnecessary. To avoid such a situation the CONTRACTING PARTIES shall authorize any such contracting party, under paragraph 4, to enter into negotiations unless they consider this would result in, or contribute substantially towards, such an increase in tariff levels as to threaten the stability of the Schedules to this Agreement or lead to undue disturbance of international trade.

3. It is expected that negotiations authorized under paragraph 4 for modification or withdrawal of a single item, or a very small group of items, could normally be brought to a conclusion in sixty days. It is recognized, however, that such a period will be inadequate for cases involving negotiations for the modification or withdrawal of a larger number of items and in such cases, therefore, it would be appropriate for the CONTRACTING PARTIES to prescribe a longer period.

4. The determination referred to in paragraph 4 (d) shall be made by the CONTRACTING PARTIES within thirty days of the submission of the matter to them unless the applicant contracting party agrees to a longer period.

5. In determining under paragraph 4 (d) whether an applicant contracting party has unreasonably failed to offer adequate compensation, it is understood that the CONTRACTING PARTIES will take due account of the special position of a contracting party which has bound a high proportion of its tariffs at very low rates of duty and to this extent has less scope than other contracting parties to make compensatory adjustment.

### 1.3 Text of the Understanding on the Interpretation of Article XXVIII of the GATT 1994

*Members hereby agree as follows:*

1. For the purposes of modification or withdrawal of a concession, the Member which has the highest ratio of exports affected by the concession (i.e. exports of the product to the market of the Member modifying or withdrawing the concession) to its total exports shall be deemed to have a principal supplying interest if it does not already have an initial negotiating right or a principal supplying interest as provided for in paragraph 1 of Article XXVIII. It is however agreed that this paragraph will be reviewed by the Council for Trade in Goods five years from the date of entry into force of the WTO Agreement with a view to deciding whether this criterion has worked satisfactorily in securing a redistribution of negotiating rights in favour of small and medium-sized exporting Members. If this is not the case, consideration will be given to possible improvements, including, in the light of the availability of adequate data, the adoption of a criterion based on the ratio of exports affected by the concession to exports to all markets of the product in question.

2. Where a Member considers that it has a principal supplying interest in terms of paragraph 1, it should communicate its claim in writing, with supporting evidence, to the Member proposing to modify or withdraw a concession, and at the same time inform the Secretariat. Paragraph 4 of the "Procedures for Negotiations under Article XXVIII" adopted on 10 November 1980 (BISD 27S/26-28) shall apply in these cases.

3. In the determination of which Members have a principal supplying interest (whether as provided for in paragraph 1 above or in paragraph 1 of Article XXVIII) or substantial interest, only trade in the affected product which has taken place on an MFN basis shall be taken into consideration. However, trade in the affected product which has taken place under non-contractual preferences shall also be taken into account if the trade in question has ceased to benefit from such preferential treatment, thus becoming MFN trade, at the time of the negotiation for the modification or withdrawal of the concession, or will do so by the conclusion of that negotiation.

4. When a tariff concession is modified or withdrawn on a new product (i.e. a product for which three years' trade statistics are not available) the Member possessing initial negotiating rights on the tariff line where the product is or was formerly classified shall be deemed to have an initial negotiating right in the concession in question. The determination of principal supplying and substantial interests and the calculation of compensation shall take into account, *inter alia*, production capacity and investment in the affected product in the exporting Member and estimates of export growth, as well as forecasts of demand for the product in the importing Member. For the purposes of this paragraph, "new product" is understood to include a tariff item created by means of a breakout from an existing tariff line.

5. Where a Member considers that it has a principal supplying or a substantial interest in terms of paragraph 4, it should communicate its claim in writing, with supporting evidence, to the Member proposing to modify or withdraw a concession, and at the same time inform the Secretariat. Paragraph 4 of the above-mentioned "Procedures for Negotiations under Article XXVIII" shall apply in these cases.

6. When an unlimited tariff concession is replaced by a tariff rate quota, the amount of compensation provided should exceed the amount of the trade actually affected by the modification of the concession. The basis for the calculation of compensation should be the amount by which future trade prospects exceed the level of the quota. It is understood that the calculation of future trade prospects should be based on the greater of:

- (a) the average annual trade in the most recent representative three-year period, increased by the average annual growth rate of imports in that same period, or by 10 per cent, whichever is the greater; or
- (b) trade in the most recent year increased by 10 per cent.

In no case shall a Member's liability for compensation exceed that which would be entailed by complete withdrawal of the concession.

7. Any Member having a principal supplying interest, whether as provided for in paragraph 1 above or in paragraph 1 of Article XXVIII, in a concession which is modified or withdrawn shall be accorded an initial negotiating right in the compensatory concessions, unless another form of compensation is agreed by the Members concerned.

### **1.3.1 Review of the Understanding on the Interpretation of Article XXVIII of the General Agreement on Tariffs and Trade 1994**

1. On 24 January 2000, the Council for Trade in Goods requested the Committee on Market Access to conduct the review envisaged in paragraph 1 of the Understanding on the Interpretation of Article XXVIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994).<sup>1</sup> On 12 October 2000, the Committee on Market Access agreed to report to the Council for Trade in Goods that the review had been carried out as mandated and that, at that stage, there was no basis to change the criterion contained in paragraph 1 of the aforementioned Understanding, with a reservation that, in the future, any Member would be free to raise this matter when necessary.<sup>2</sup>

### **1.4 Text of the Procedures for Negotiations under Article XXVIII (The Guidelines)<sup>3</sup>**

1. A contracting party intending to negotiate for the modification or withdrawal of concessions in accordance with the procedures of Article XXVIII, paragraph 1 - which are also applicable to negotiations under paragraph 5 of that Article - should transmit a notification to that effect to the secretariat which will distribute the notification to all other contracting parties in a secret document.<sup>4</sup> In the case of negotiations under paragraph 4 of Article XXVIII the request for authority to enter into negotiations should be transmitted to the secretariat to be circulated in a secret document and included in the agenda of the next meeting of the Council.

2. The notification or request should include a list of items, with corresponding tariff line numbers, which it is intended to modify or withdraw indicating for each item the contracting parties, if any, with which the item was initially negotiated. It should be indicated whether the intention is to modify a concession or withdraw it, in whole or in part, from the schedule. If a concession is to be modified, the proposed modification should be stated in the notification or circulated as soon as possible thereafter to those contracting parties with which the concession was originally negotiated and those which are recognized, in accordance with paragraph 4 below, to have a principal or a substantial supplying interest. The notification or request should be accompanied by statistics of imports of the products involved, by country of origin, for the last three years for which statistics are available. If specific or mixed duties are affected, both values and quantities should be indicated, if possible.

3. At the same time as the notification is transmitted to the secretariat or when the authorization to enter into negotiations has been granted by the Council - or as soon as possible thereafter - the contracting party referred to in paragraph 1 above should communicate to those contracting parties, with which concessions were initially negotiated, and those which have a principal supplying interest, the compensatory adjustments which it is prepared to offer.

4. Any contracting party which considers that it has a principal or a substantial supplying interest in a concession which is to be the subject of negotiation and consultation under Article XXVIII should communicate its claim in writing to the contracting party referred to in paragraph 1 above and at the same time inform the secretariat. If the contracting party referred to in paragraph 1 above recognizes the claim, the recognition will constitute a determination by the CONTRACTING PARTIES of interest in the sense of Article XXVIII:1.<sup>5</sup> If a claim of interest is not recognized, the contracting party making the claim may refer the

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<sup>1</sup> [G/C/M/42](#), para. 4.

<sup>2</sup> [G/MA/M/26](#), Section 6.

<sup>3</sup> Guidelines adopted on 10 November 1980, GATT documents [C/113](#) and [C/113/Corr.1](#), GATT BISD 27S/26-28.

<sup>4</sup> (*footnote original 1*): The date for submission of a notification for negotiation under Article XXVIII, paragraph 1, shall comply with the provisions of interpretative note 3 to paragraph 1 of Article XXVIII.

<sup>5</sup> Footnote original 2: If, in exceptional circumstances, the contracting party referred to in paragraph 1 above is not in a position to supply relevant import statistics, it shall give due consideration to export statistics provided by contracting parties claiming an interest in the concession or concessions concerned.

matter to the Council. Claims of interest should be made within ninety days following the circulation of the import statistics referred to in paragraph 2 above.

5. Upon completion of each bilateral negotiation the contracting party referred to in paragraph 1 above should send to the secretariat a joint letter on the lines of the model in Annex A3 attached hereto signed by both parties. To this letter shall be attached a report on the lines of the model in Annex B<sup>6</sup> attached hereto. The report should be initialled by both parties. The secretariat will distribute the letter and the report to all contracting parties in a secret document.

6. Upon completion of all its negotiations the contracting party referred to in paragraph 1 above should send to the secretariat, for distribution in a secret document, a final report on the lines of the model in Annex C attached hereto.

7. Contracting parties will be free to give effect to the changes agreed upon in the negotiations as from the first day of the period referred to in Article XXVIII:1, or, in the case of negotiations under paragraph 4 or 5 of Article XXVIII, as from the date on which the conclusion of all the negotiations have been notified as set out in paragraph 6 above. A notification shall be submitted to the secretariat, for circulation to contracting parties, of the date on which these changes will come into force.

8. Formal effect will be given to the changes in the schedules by means of Certifications in accordance with the Decision of the CONTRACTING PARTIES of 26 March 1980.<sup>7</sup>

9. The secretariat will be available at all stages to assist the governments involved in the negotiations and consultations.

10. These procedures are in relevant parts also valid for renegotiations under Article XVIII, paragraph 7, and Article XXIV, paragraph 6.

### **1.5 Text of the Procedures for Modification and Rectification of Schedules of Tariff Concessions (1980 Procedures)<sup>8</sup>**

*Recalling* that the CONTRACTING PARTIES established on 19 November 1968 a procedure for the certification of changes to Schedules annexed to the General Agreement.<sup>9</sup>

*Considering* the importance of keeping the authentic texts of Schedules annexed to the General Agreement up to date and of ensuring that they tally with the texts of corresponding items in national customs tariffs;

*Considering* that, in consequence, changes in the authentic texts of Schedules which record rectifications of a purely formal character or modifications resulting from action taken under Article II, Article XVIII, Article XXIV, Article XXVII and Article XXVIII shall be certified without delay;

The CONTRACTING PARTIES decide that:

1. Changes in the authentic texts of Schedules annexed to the General Agreement which reflect modifications resulting from action under Article II, Article XVIII, Article XXIV, Article XXVII or Article XXVIII shall be certified by means of Certifications. A draft of such change shall be communicated to the Director-General within three months after the action has been completed.

2. Changes in the authentic texts of Schedules shall be made when amendments or rearrangements which do not alter the scope of a concession are introduced in national customs tariffs in respect of bound items. Such changes and other rectifications of a purely formal character shall be made by means of Certifications. A draft of such changes shall be

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<sup>6</sup> The Annexes are not reproduced.

<sup>7</sup> Footnote original 3: See [S/27](#) page 25.

<sup>8</sup> Decision of 26 March 1980, GATT document [L/4962](#).

<sup>9</sup> Footnote original 1: GATT BISD 16S/16.

communicated to the Director-General where possible within three months but not later than six months after the amendment or rearrangement has been introduced in the national customs tariff or in the case of other rectifications, as soon as circumstances permit.

3. The draft containing the changes described in paragraphs 1 and 2 shall be communicated by the Director-General to all the contracting parties and shall become a Certification provided that no objection has been raised by a contracting party within three months on the ground that, in the case of changes described in paragraph 1, the draft does not correctly reflect the modifications or, in the case of changes described in paragraph 2, the proposed rectification is not within the terms of that paragraph.

4. Whenever practicable Certifications shall record the date of entry into force of each modification and the effective date of each rectification.

5. The procedure of Certification under this Decision may be applied for the establishment of consolidated Schedules or of new Schedules under paragraph 5(c) of Article XXVI, wherein all changes are modifications or rectifications referred to in paragraphs 1 or 2.

6. This Decision supersedes the Decision of 19 November 1968.

### **1.6 GATT 1947 practice under Article XXVIII**

2. See document on Article XXVIII of the GATT 1947 (GATT Analytical Index, pages 933-984). Although the early practice makes it difficult to determine the exact number of renegotiations that took place under the General Agreement on Tariffs and Trade 1947 (GATT 1947), the Secretariat's records show that at least 42 GATT contracting parties initiated roughly 300 renegotiations between 1951 and 1994.<sup>10</sup>

### **1.7 Rules and procedures for Article XXVIII renegotiations**

3. Article XXVIII of the GATT 1994 allows Members to modify or withdraw a concession included in the appropriate Schedule following negotiation and agreement with Members primarily concerned by the concession. They include Members "with whom the concession was originally negotiated" and Members that have a "principal" or a "substantial" supplying interest on the concession. In these negotiations and agreement, which may include compensatory adjustment with respect to other products, the Members concerned "shall endeavour to maintain a general level of reciprocal and mutually advantageous concessions not less favourable to trade" than that provided for prior to such negotiations.

4. In addition to Article XXVIII of the GATT 1994 itself, the rules and procedures governing the renegotiation of concessions are contained in several legal instruments, which include: the Interpretative Note of Article XXVIII (*Ad Article XXVIII*), the 1994 Understanding on the Interpretation of Article XXVIII, the Guidelines on Procedures for Negotiations under Article XXVIII<sup>11</sup> (the "Guidelines"), and the Procedures for Modification and Rectification of Schedules of Tariff Concessions (the "1980 Procedures").<sup>12</sup>

### **1.8 WTO practice under Article XXVIII**

5. Information concerning the status of Article XXVIII renegotiations is periodically released by the Secretariat in a factual report<sup>13</sup>, as well as in the Secretariat's more general note on the Situation of Schedules of WTO Members.<sup>14</sup> A factual report released in 2022 by the Secretariat indicated that there had been 49 renegotiations under Article XXVIII of the GATT 1994 since 1 January 1995. Of these, nine requests had been withdrawn; one request had not been authorized by the Council for Trade in Goods; 26 renegotiations had been concluded and formally certified; four had been

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<sup>10</sup> See [G/MA/W/23/Rev. document series](#). A list of Article XXVIII renegotiations appears in the *GATT Analytical Index* at pp. 967-984. See also [TAR/W/7](#) on Article XXVIII negotiations up to June 1980.

<sup>11</sup> Adopted by the GATT 1947 Council on 10 November 1980, GATT BISD 27S/26.

<sup>12</sup> Adopted by the CONTRACTING PARTIES on 26 March 1980, GATT BISD 27S/25-26.

<sup>13</sup> [G/M/W/123](#) and revisions.

<sup>14</sup> [G/MA/W/23/Rev. document series](#); see also the WTO Goods Schedules e-Library <https://goods-schedules.wto.org/>.



concluded and draft changes submitted under the 1980 Procedures; and 9 renegotiations remained ongoing. See the table below for more information.

### **1.9 Initiation of Article XXVIII renegotiations**

6. Article XXVIII of the GATT 1994 provides for three time-frames in which a Member may initiate procedures to renegotiate concessions.

7. According to Article XXVIII:1 of the GATT 1994, there are three-year periods (the first period beginning on 1 January 1958) during which a Member wishing to renegotiate a concession can notify other Members of its intention to do so. The current three-year period began on 1 January 2018 and will conclude on 31 December 2020. Paragraph 3 of the Ad Note to Article XXVIII:1 provides that a Member wishing to modify or withdraw any concession embodied in the appropriate Schedule, should submit a notification to this effect "[n]ot earlier than six months, nor later than three months, prior to... the termination date of" the relevant triennial period.

8. Outside this three-to-six-month window during a given triennial period, Article XXVIII:4 of the GATT 1994 allows Members facing "special circumstances" to renegotiate at any time, after requesting and obtaining authorization from the Membership. Once authorised, renegotiations under Article XXVIII:4 are expected to be concluded within 60 days, unless the Membership authorizes a longer period.

9. Finally, Article XXVIII:5 of the GATT 1994 provides that a Member can initiate a renegotiation at any time within a triennial period on the condition that it has reserved the right to renegotiate before the beginning of the corresponding period.

10. In the WTO, Article XXVIII:5 (30 cases) has been the most frequently invoked of these three provisions, whereas Article XXVIII:1 has been invoked on three occasions<sup>15</sup>, and the authorization in Article XXVIII:4 has been sought three times but it has only been authorized once.<sup>16</sup> Other Article XXVIII renegotiations have resulted from action under Article XXIV:6 and the procedures for the HS transposition of Schedules.

11. Paragraph 1 of the Guidelines provides that a Member seeking to initiate a renegotiation "should transmit a notification to that effect to the Secretariat", which will distribute the notification to all other Members in a secret document. Notifications relating to renegotiations under Article XXVIII of the GATT 1994 are circulated in the [G/SECRET](#) document series, and are not placed on the agenda of any WTO committee or body, unless a Member requests otherwise. Conversely, in the case of renegotiations under Article XXVIII:4, the request for authority to enter into negotiations is included in the agenda of the next meeting of the Council for Trade in Goods.<sup>17</sup> The specific elements and information to be included in the notification or request are specified in paragraph 2 of the Guidelines and "should be accompanied by statistics of imports of the products involved, by country of origin, for the last three years for which statistics are available". These statistics are used for determining which Members are determined to have negotiating rights and may therefore participate in the negotiations and consultations.

### **1.10 Renegotiations resulting from action under Article XXIV:6**

12. Article XXIV:6 of the GATT 1994 establishes the procedure to be followed when a Member forming a customs union proposes to increase a bound rate of duty in its Schedule of concessions. This provision stipulates that, in such cases, "the procedure set forth in Article XXVIII shall apply". Nine Article XXVIII renegotiations<sup>18</sup> have resulted from the invocation of Article XXIV:6, i.e. the

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<sup>15</sup> Grenada, India, and Suriname. See [G/MA/W/123/Rev.9](#).

<sup>16</sup> Gabon, Grenada, and Trinidad and Tobago. Grenada's request under Article XXVIII:4 was withdrawn and subsequently submitted under Article XXVIII:1. Trinidad and Tobago's request was not authorized by the Council for Trade in Goods. See [G/MA/W/123/Rev.9](#).

<sup>17</sup> Paragraph 1 of the Guidelines. See request from Gabon seeking authorization to enter into negotiations under Article XXVIII:4 of the GATT 1994 for the modification or withdrawal of the concessions in its Schedule of Concessions XLVII ([G/C/M/116](#) p. 4) and request from Trinidad and Tobago to modify its Schedule of Concessions LXVII ([G/C/M/133](#) pp. 15-16).

<sup>18</sup> Renegotiations by Armenia, Gabon, Haiti, the Kyrgyz Republic and Suriname, as well as the four enlargements of the European Union. See [G/MA/W/123/Rev.9](#).

establishment of a customs union leading to a common external tariff exceeding the bound duties in the Schedule of Concessions of one or more of its parties.

### **1.11 Renegotiations in the context of HS transpositions**

13. The GATT procedures for the transposition of Schedules into HS92 envisaged that, in the case that objections to the proposed transpositions of concessions were raised, or if the contracting party in question were to decide to enter into renegotiations, the procedures of Article XXVIII of the GATT 1994 shall be followed.<sup>19</sup> Similar provisions have been included in subsequent HS transposition procedures adopted at the WTO. For example, paragraph 11 of the revised HS2002 transposition procedures states that "[i]n case the scope of a concession has been modified as a result of the transposition, Article XXVIII of the GATT 1994 consultations and renegotiations shall be entered into by the Member concerned".<sup>20</sup> All subsequent transposition procedures have included similar language (see the document on Article II of the GATT (Practice)).

14. There have been three renegotiations that began under the GATT 1947 concerning the introduction of the HS nomenclature in Schedules, or the implementation of amendments to the HS nomenclature, and were concluded many years afterwards in the WTO.<sup>21</sup>

### **1.12 Determination of Members with negotiating rights**

15. Article XXVIII:1 of the GATT 1994 envisages that a Member may modify or withdraw a concession by negotiation and agreement with any Member with whom such concession was "initially negotiated" (i.e. the Member(s) with initial negotiating rights ("INRs")) and with any other Member "determined" to have a "principal supplying interest", and subject to consultation with any other Member determined to have a "substantial interest" in such concession. Together with the initiating Member, the INR holders and the principal supplier are defined by Article XXVIII as the Members "primarily concerned". Paragraph 1 of the Guidelines explains that the procedures of XXVIII:1 "are also applicable to negotiations under paragraph 5 of that Article". In practice, the determination of Members with negotiating rights under Article XXVIII:1 has also been followed for renegotiations pursuant to Articles XXVIII:4 and XXVIII:5 of the GATT 1994.

#### **1.12.1 INRs**

16. During the GATT 1947, INRs were mostly identified in the bilateral agreements deposited with the Secretariat and in informal working documents. This practice has changed slightly in the WTO. From 1995 to 1996, the question of historical INRs was raised in the Committee on Market Access in the context of discussions preceding the Decision on the Establishment of Consolidated Loose-Leaf Schedules.<sup>22</sup> A draft decision was prepared by the Committee on Market Access<sup>23</sup> and forwarded to the Council for Trade in Goods for action. The Council agreed that:

"Each Member shall include in its schedule all INRs at the current bound rate. Other Members may request the inclusion of any INR that had been granted to them. Historical INRs different from the current bound rate not specifically identified shall remain valid where a Member modifies its concession at a rate different from the rate at which the INR was granted."<sup>24</sup>

17. The same Decision also specifically states that the "[c]onsolidated Loose-Leaf Schedules of Goods replaces all previous Schedules for all purposes relating to Members' rights and obligations with the exception of historical INRs".<sup>25</sup> In the WTO, INRs have been frequently reflected in a dedicated column of the Schedules of concessions. All available information on INRs has also been included in the Consolidated Tariff Schedules (CTS) Database, but it does not have legal value.

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<sup>19</sup> GATT document [L/6905](#), para. 6 of the Annex.

<sup>20</sup> [WT/L/605](#).

<sup>21</sup> Bangladesh, Dominican Republic, and Sri Lanka. [G/MA/W/123/Rev.9](#).

<sup>22</sup> [G/L/138](#), Decision of 29 November 1996.

<sup>23</sup> [G/MA/TAR/W/6](#).

<sup>24</sup> [G/L/138](#), para. 10.

<sup>25</sup> [G/L/138](#), para. 1.

### 1.12.2 Principal supplying interest

18. There are two definitions of "principal supplying interest" provided in Article XXVIII and its Ad Note. The first one is based on criteria of import shares, while the second one is based on export shares.

19. The "principal supplying interest" of a Member in a specific concession based on the import criterion has generally been determined on the basis of import statistics furnished by the renegotiating Member in its notification to initiate Article XXVIII renegotiations.<sup>26</sup> The Ad Note to paragraph 1 of Article XXVIII clarifies that the objective of providing for the participation in the renegotiations of Members with this type of "principal supplying interest", beyond those with "initial negotiating rights", is to ensure that the Member with the larger share in the trade affected by the concession "shall have an effective opportunity to protect the contractual right" which it enjoys under the Agreement. The Ad Note further states that "it is not intended that the scope of the negotiations should be such as to make negotiation and agreement under Article XXVIII unduly difficult nor to create complications in the application of Article XXVIII in the future".<sup>27</sup>

20. The definition of "principal supplying interest" based on the export criterion is contained in paragraph 5 of the Ad Note to paragraph 1 of Article XXVIII, which states that "the CONTRACTING PARTIES may exceptionally determine that a contracting party has a principal supplying interest if the concession in question affects trade which constitutes a major part of the total exports of such contracting party." Paragraph 1 of the Understanding on the Interpretation of Article XXVIII provides further that "the Member which has the highest ratio of exports affected by the concession (i.e. exports of the product to the market of the Member modifying or withdrawing the concession) to its total exports shall be deemed to have a principal supplying interest if it does not already have an initial negotiating right or a principal supplying interest as provided for in paragraph 1 of Article XXVIII".

### 1.12.3 Substantial interest

21. Article XXVIII:1 also requires the renegotiating Member to consult with any other Member determined to have a "substantial interest" in such a concession. Paragraph 7 of the Ad Note to paragraph 1 of Article XXVIII clarifies that the expression "substantial interest" is not capable of a precise definition. In practice, Members having a 10 per cent market share in the concession subject to renegotiation, calculated on the basis of the import statistics notified by the initiating Member, have been considered as having substantial interest in that concession. This practice was mentioned in a 1985 meeting of the GATT Committee on Tariff Concessions, where it was stated that the "10 per cent share" rule had been generally applied for the definition of "substantial supplier".<sup>28</sup>

### 1.12.4 Claims of interest

22. Any Member considering to have a "principal" or a "substantial" supplying interest in a concession subject to renegotiation "should communicate its claim in writing", with supporting evidence, to the initiating Member, and at the same time inform the Secretariat.<sup>29</sup> Claims of interests "should be made within ninety days" following the circulation of the notification with import statistics. Although Members holding an "initial negotiating right" are not required to submit a claim of interest, in practice they have occasionally done so. Claims of interest are normally submitted in the form of a letter addressed directly to the renegotiating Member, copying the Secretariat. The Secretariat keeps a record of these communications, which are not circulated to other Members. The number of claims of interest submitted has varied from one renegotiation to the other. While there was one

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<sup>26</sup> According to Ad Note 4 to paragraph 1 of Article XXVIII, a Member may be considered to have a principal supplying interest in a concession:

"If that Member has had, over a reasonable period of time prior to the negotiations, a larger share in the market of the applicant contracting party than a contracting party with which the concession was initially negotiated or would, in the judgement of the CONTRACTING PARTIES, have had such a share in the absence of discriminatory quantitative restrictions maintained by the applicant contracting party. It would therefore not be appropriate for the CONTRACTING PARTIES to determine that more than one contracting party, or in those exceptional cases where there is near equality more than two contracting parties, had a principal supplying interest."

<sup>27</sup> Paragraph 4 of the Ad Note to Paragraph 1.

<sup>28</sup> GATT document [TAR/M/16](#).

<sup>29</sup> Paragraph 4 of the Guidelines and paragraph 2 of the 1994 Understanding.

renegotiation in which no claim of interest was submitted<sup>30</sup>, there was another one where 30 Members submitted claims of interest.<sup>31</sup>

23. Paragraph 4 of the Guidelines provides that if the renegotiating Member recognizes the claim, then "the recognition will constitute a determination of interest" in the concession concerned. If a claim of interest is not recognized, the Member making the claim "may refer the matter to the Council". In practice, Members have taken different approaches in the recognition of rights for the purpose of Article XXVIII renegotiations. Cases of non-recognition of rights have been raised in the Council for Trade in Goods<sup>32</sup> and in the General Council.<sup>33</sup> In one case, the issue was settled as part of the 2010 Geneva Agreement on Trade in Bananas, which states that "all claims filed to date by any and all Latin American MFN banana suppliers under the procedures of Articles XXIV and XXVIII of the GATT 1994 with respect to the EU trading regime for bananas ... shall be settled".<sup>34</sup> More recently, the issue of the non-recognition of rights under Article XXVIII:1 of the GATT 1994 has been discussed in the Committee on Market Access<sup>35</sup> and the CTG.<sup>36</sup>

### 1.13 Notification of joint letters and final reports

24. Upon completion of each bilateral negotiation, paragraph 5 of the Guidelines requires the initiating Member to notify to the Secretariat a "joint letter" which shall be initialled by both parties. Paragraph 6 of the Guidelines further provides that, upon completion of all its negotiations, the initiating Member shall submit a "final report" describing the results of its negotiations and consultations with the relevant Members, including whether an agreement has been reached. The Annexes to the Guidelines provide specific formats for the bilateral agreements and the final report, which have been used by Members to notify the conclusion of Article XXVIII renegotiations. The joint letters and final report are circulated by the Secretariat as an addendum to the initial [G/SECRET](#) notification. Under the WTO, Members have normally notified the bilateral agreements and/or the final report formally concluding the renegotiation process, which in many cases has taken place simultaneously. See the table below. This represented a significant improvement in transparency with respect to the GATT 1947.

### 1.14 Modification of the Schedules of concessions to reflect the changes resulting from Article XXVIII renegotiations

25. Renegotiations involve a two-step process. Once an Article XXVIII renegotiation is concluded (i.e. bilateral agreements have been signed and submitted, and the renegotiating Member has submitted a final report), the renegotiating Member shall initiate the procedures to reflect the resulting changes in the authentic text of its Schedule of Concessions. These changes have typically included not only the concessions that the renegotiating Member sought to modify, but also the modification of any other concession agreed as compensation in the context of bilateral negotiations with Members determined to have negotiating rights.

26. Paragraph 1 of the 1980 Procedures requires that a draft containing the changes "shall be communicated to the Director-General within three months after the action [i.e. the renegotiation]

<sup>30</sup> El Salvador, [G/SECRET/27](#).

<sup>31</sup> Ukraine, [G/SECRET/34](#).

<sup>32</sup> See for example discussions in the CTG concerning the European Union and Russia in the context of the Enlargement of the European Union on 1 July 2013. [G/C/M/117](#) p. 2; and [G/C/M/130](#), p. 5.

<sup>33</sup> See the communication from Honduras and Guatemala on the non-recognition of rights under Article XXIV:6 and Article XXVIII of GATT 1994 ([WT/GC/M/90](#), p.23). This matter became a "standing item" in the agenda of the General Council from 2005 to 2009, when it was eventually suspended. ([WT/GC/M/124](#), paras. 58-61)

<sup>34</sup> [WT/L/784](#).

<sup>35</sup> In 2018, the Russian Federation submitted a communication in the context of the enlargement of the European Union for the accession of Croatia. In the communication, the Russian Federation stated that it "disagrees with the EU's position that the negotiations have been completed and the EU's arguments that Russia was lacking rights for compensatory adjustment as a result of a fact that "[Russian] communication had been sent long after the deadline (90-day period) set out in the applicable Procedures for Negotiations under GATT Article XXVIII, adopted in 1980 and, in addition, the letter did not indicate any specific claim, and nor did it provide any supporting evidence". For additional information, see for example WTO documents [G/SECRET/35/Add.4](#); [G/MA/M/68](#) (paras 85-89); [G/MA/M/70](#) (paras 10.1-10.4); [G/MA/M/71](#) (paras. 11.1-11-4); [G/MA/M/72](#) (paras. 13.1-13-4); and [G/MA/M/73](#) (paras. 13.1-13-4).

<sup>36</sup> See for example [G/C/M/133](#) (paras. 7.1-7.9), [G/C/M/134](#) (paras. 6.1-6.5), [G/C/M/135](#) (paras. 3.1-3.5) and [G/C/M/136](#) (paras. 6.1-6.5).

had been completed". A draft containing the proposed changes is circulated by the Secretariat in [G/MA/TAR/RS](#) document series to all Members. WTO Members have three months from the date of circulation of this document to review the proposed changes and to object on the grounds that "the draft does not correctly reflect the modifications".<sup>37</sup> At the end of the three-month period, and in the absence of objections, the Director-General "certifies" the changes to the Schedules and these become effective. The certified changes are circulated in the [WT/Let](#) document series.

27. Since 1995, the 1980 Procedures have been undertaken in 29 instances to certify modifications to Schedules following the conclusion of an Article XXVIII renegotiation. The 1980 Procedures provide an opportunity for Members that held negotiations and consultations with the renegotiating Member to ensure that the results of their bilateral agreements have been appropriately reflected in the proposed modifications and before they are introduced in the Schedule. There has been one case in which a Member, which had been consulted in the context of an Article XXVIII renegotiation, objected to the draft changes that had been proposed by the renegotiating Member on the grounds that these changes did not properly reflect the results of the agreement that had been reached bilaterally.<sup>38</sup> Of the 29 procedures initiated under the WTO to certify modifications resulting from Article XXVIII under the 1980 Procedures, 25 have formally been concluded and certified by the Director-General, and four procedures are pending due to ongoing reservations or the completion of domestic procedures. See the table below.

### **1.15 Article XXVIII:3: Withdrawal of equivalent concessions**

28. Article XXVIII:3 of the GATT 1994 states that if agreement between the Members primarily concerned cannot be reached, the Member which "proposes to modify or withdraw the concession shall, nevertheless, be free to do so". If such action is taken, the Members holding rights (i.e. Members with initial negotiating rights, principal supplying interest, and substantial interest) shall also be free, no later than six months after the action is taken, to withdraw substantially equivalent concessions. Under the WTO, the vast majority of Article XXVIII renegotiations have concluded with an agreement between the parties primarily concerned, with the exception of one single case in which the renegotiating Member reported that no agreement had been reached.<sup>39</sup> However, no withdrawal of equivalent concessions by other Members had taken place in that case. There have been seven instances in which Members have invoked or reserved rights under Article XXVIII:3.<sup>40</sup> However, these requests did not result in the withdrawal of equivalent concessions, as these requests were withdrawn following an agreement with the renegotiating Member, a bilateral agreement was reached, or no specific action was taken.

29. In the Council for Trade in Goods, some renegotiating Members have announced the extension of the six-month period to withdraw equivalent concessions in Article XXVIII:3 in order to allow for additional time to conclude the negotiations with the other Members. In practice, the extension has been announced through a communication from the renegotiating Member to the Council for Trade in Goods and circulated under the [G/L/](#) document series. For example, in the context of the EC-15 Enlargement, the European Union stated that it "will not assert that WTO Members who have submitted a claim pursuant to Article XXIV:6 of [the] GATT 1994 are precluded from withdrawing substantially equivalent concessions under Article XXVIII:3 of [the] GATT 1994 because this withdrawal occurs later than six months after the EU's withdrawal of concessions, provided that the claiming WTO Member withdraws concessions no later than [six months after the expiry of the extension]".<sup>41</sup> A similar series of extensions was announced by the European Union in respect of the EU-25 enlargement<sup>42</sup> and in the context of the withdrawal of the United Kingdom from the European

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<sup>37</sup> Paragraph 3 of the 1980 Procedures.

<sup>38</sup> See communication by Gabon in [G/MA/TAR/RS/446/Add.1](#) explaining that changes were necessary to take account of an objection that had been raised by the United States.

<sup>39</sup> The Philippines, [G/MA/W/123/Rev.9](#).

<sup>40</sup> Canada in the context of the EC-15 Enlargement ([G/SECRET/1](#)); Brazil in a renegotiation by Chile ([G/SECRET/12/Add.2](#)); the United States in a renegotiation by the European Communities ([G/SECRET/18/Add.1](#)); Costa Rica ([G/SECRET/20/Add.2](#)); Colombia ([G/SECRET/20/Add.3](#)); Panama ([G/SECRET/20/Add.4](#)); and Argentina ([G/SECRET/20/Add.6](#)) in the context of the EU-25 Enlargement.

<sup>41</sup> [G/L/695/Add.1-17](#).

<sup>42</sup> [G/L/1051/Add.1-9](#).

Union<sup>43</sup>, for the accession of Armenia and the Kyrgyz Republic to the Eurasian Economic Union,<sup>44</sup> and by the United Kingdom's following its withdrawal from the European Union.<sup>45</sup>

### **1.16 Article XXVIII:5: Reservation of rights before the beginning of a triennial period**

30. Since 1995, the number of reservations under paragraph 5 has progressively increased.<sup>46</sup> However, the large majority of Members reserving such rights have not actually launched Article XXVIII procedures.

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Current as of: September 2022

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<sup>43</sup> [G/L/1385/Add.1-2](#).

<sup>44</sup> [G/L/1110/Add.1-7](#) and [G/L/1137/Add.1-6](#).

<sup>45</sup> [G/L/1386/Add.1](#) and [Corr.1](#), and [Add.2](#).

<sup>46</sup> These documents are circulated in the [G/MA/\\*](#) document series.

**ANNEX: STATUS OF ARTICLE XXVIII RENEGOTIATIONS (1995 – 26 SEPTEMBER 2022)**

1.1. 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>47</sup> The table is sorted in alphabetical order, in accordance with document [WT/INF/43/Rev.22](#).
- 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>48</sup>, as well as the relevant certification by the Director-General<sup>49</sup>, if any.
- Column 8:** Indicates the latest status known to the WTO Secretariat.

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<sup>47</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>48</sup> These documents are circulated under the [G/MA/TAR/RS/](#) document series.

<sup>49</sup> These documents are circulated under the [WT/Let/](#) document series.

<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) and G/SECRET/7/Add.1	Wheat (1 TL)	3			The request was withdrawn in G/SECRET/7/Add.2
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 23.
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 24.
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 21 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>50</sup> and certified in WT/Let/1220	Concluded and certified

<sup>50</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>51</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>52</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)	1	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>53</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 joint letters were circulated in G/SECRET/32/Add.1	Results were included <sup>54</sup> as part of G/MA/TAR/RS/506. Reservations were raised.	Article XXVIII negotiations concluded. Draft changes submitted under the 1980 Procedures. Not yet certified.
20.	European Union	<b>Article XXVIII:5</b> G/SECRET/42 and G/SECRET/42/Add.2 (2018) G/SECRET/42/Add.3 (2020)	All agricultural and non-agricultural TRQs	27			Ongoing <sup>55</sup>

<sup>51</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>52</sup> See documentation submitted with G/MA/TAR/RS/357: page 2 of the "Technical Note" and the correlation table of agricultural products.

<sup>53</sup> See documentation submitted with G/MA/TAR/RS/357: correlation table of tariff rate quotas for agricultural products.

<sup>54</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>55</sup> On 21 December 2020, the European Union informed Members that it was necessary to invoke Article XXVIII:3 of the GATT, and modify the TRQ concessions from 1 January 2021, as a result of the end of the transition period of the Withdrawal Agreement and the fact that the European Union and the United Kingdom would operate separate import regimes from that date. The European Union indicated further that it was nevertheless keen to continue negotiations and consultations under Article XXVIII:1, 2 and 5 with a view to finding agreement on the modification of its concessions. Also, if necessary, it would take action in the first semester of 2021 to effectively extend the six-month timelines of Article XXVIII:3 so as to allow Members to finalize the ongoing negotiations and consultations through agreement also after 1 July 2021. See G/SECRET/42/Add.3. In that regard, the European Union communicated the extension of the timelines provided under the above referenced provision until 1 July 2022. See G/L/1385/Add.1.

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
21.	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>56</sup>	15		The 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
22.	European Union enlargement to 25	<b>Arts. XXIV:6 and XXVIII</b>  G/SECRET/20 (2004)	Schedule CXL was withdrawn <sup>57</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
23.	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>58</sup>	12	Final report and joint letters were circulated in G/SECRET/26/Add.1	Results were included <sup>59</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.
24.	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>60</sup>	13	Joint letters were circulated in G/SECRET/35/Add.1 and G/SECRET/35/Add.2. The final report was circulated in G/SECRET/35/Add.2	Results were included <sup>61</sup> as part of G/MA/TAR/RS/506 and G/MA/TAR/RS/506/Add.2. Reservations were raised.	Article XXVIII negotiation concluded. Draft changes submitted under the 1980 Procedures. Not yet certified.

<sup>56</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>57</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."

<sup>58</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>59</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>60</sup> Document [G/SECRET/35](#) states, *inter alia*, that "[t]he new member of the European Union will be subject to the Schedules of the European Union on 1 July 2013."

<sup>61</sup> See footnote 10.

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
25.	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
26.	Grenada	<b>Art. XXVIII:4 request</b> to enter into renegotiations was submitted. See G/C/M/59.  G/SECRET/14 (2002)	Chicken meat and beer (8 Tls)	1			The request was withdrawn and replaced by G/SECRET/16. See item 27.
27.	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
28.	Haiti	<b>Arts. XXIV:6 and XXVIII:5</b>  G/SECRET/39 (2017)	Various agricultural and non-agricultural products (895 Tls)	5			Ongoing
29.	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
30.	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

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
							the enlargement to EU-25. See item 22.
31.	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
32.	Kyrgyz Republic	<b>Arts. XXIV:6 and XXVIII:5</b> G/SECRET/38 (2015)	Various agricultural and non-agricultural products (3300 Tls)	6			Ongoing
33.	Moldova, Republic 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
34.	Netherlands (Netherlands Antilles)	<b>Art. XXVIII:5 and MTN.TNC/43<sup>62</sup></b> G/SECRET/23 and G/SECRET/23/Corr.1 (2005)	Various agricultural and non-agricultural products (2493 Tls)	1			Ongoing. Reservations were raised
35.	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
36.	Panama	<b>Art. XXVIII:1</b> G/SECRET/45 (2020)	Liquid and evaporated milk (9 Tls)	4			Ongoing
37.	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.

<sup>62</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
38.	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	Results were circulated in G/MA/TAR/RS/677 and certified in WT/Let/1583	Concluded and certified
39.	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
40.	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
41.	Suriname	<b>Arts. XXIV:6 and XXVIII:5</b>  G/SECRET/41 (2018)	Various agricultural and non-agricultural products (716 Tls)	5			Ongoing
42.	Switzerland-Liechtenstein	<b>Art. XXVIII:5</b>  G/SECRET/4 (1995)	Apricots (1 TL)	1	Final report was circulated in G/SECRET/4/Add.1 and G/SECRET/4/Add.2	Results were circulated in G/MA/TAR/RS/579 and G/MA/TAR/RS/579/Add.1. Certified in WTT/Let/1456	Concluded and certified
43.	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
44.	Switzerland-Liechtenstein	<b>Art. XXVIII:5</b>  G/SECRET/19 (2003)	Live horses, asses, mules and hinnies	n.a.			Request was withdrawn in G/SECRET/19/Add.1

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
			(2 Tls)				
45.	Switzerland-Liechtenstein	<b>Art. XXVIII:5</b> G/SECRET/40 and G/SECRET/40/Corr.1 (2018)	Seasoned meat, not further prepared (2 Tls)	2	Final report and joint letters were circulated in G/SECRET/40/Add.1	Results were circulated in G/MA/TAR/RS/594 and G/MA/TAR/RS/594/Add.1. Certified in WT/Let/1569	Concluded and certified
46.	Trinidad and Tobago	<b>Art. XXVIII:4 request</b> to enter into renegotiations was submitted. See G/C/M/133. G/SECRET/43 (2018)	Other Hydraulic cements (1 Tls)	n.a.			The request has not been approved (see G/C/M/133/Add.1).
47.	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).
48.	United Kingdom	<b>Art. XXVIII:5</b> G/SECRET/44 (2018)	All agricultural and non-agricultural TRQs	21			Ongoing <sup>63</sup>
49.	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.

<sup>63</sup> On 31 December 2020, the United Kingdom issued a communication ([WT/GC/226](#)), which informed Members that from 23.00 GMT on 31 December 2020, the United Kingdom would fully respect the concessions and commitments laid out in its Goods Schedule [G/MA/TAR/RS/570](#) (and subsequent addenda), as a result of the conclusion of the transition period under the Withdrawal Agreement agreed between the European Union and the United Kingdom. The United Kingdom indicated further that nothing in its communication was intended to have the effect of impeding the course of discussions under Article XXVIII or interfering with their successful conclusion, and that it recognised the practical mechanisms available to WTO Members to extend the timelines envisaged under Article XXVIII:3 in case it proved necessary. In that regard, the United Kingdom communicated the extension, until 1 July 2022, of the timelines provided under the above referenced provision. See [G/L/1386/Add.1](#) and [Corr.1](#).