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**AUSTRALIA
and
NEW ZEALAND**

Exchange of letters constituting an agreement on rates and margins of preference (with annex). Wellington and Canberra, 7 May 1973

Authentic text: English.

Registered by Australia on 18 December 1973.

**AUSTRALIE
et
NOUVELLE-ZÉLANDE**

Échange de lettres constituant un accord relatif aux taux et marges préférentiels (avec annexe). Wellington et Canberra, 7 mai 1973

Texte authentique : anglais.

Enregistré par l'Australie le 18 décembre 1973.

EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF NEW ZEALAND ON RATES AND MARGINS OF PREFERENCE

I

OFFICE OF THE MINISTER OF TRADE AND INDUSTRY
WELLINGTON

7 May 1973

My dear Minister,

I refer to discussions which have taken place between our two Governments on the question of the preferential tariff arrangements which are to apply between our two countries in the future, and to the tariff restructuring exercise under way in both countries. We are both agreed that in restructuring our tariffs, the opportunity should be taken to further the objectives of the New Zealand-Australia Free Trade Agreement.² With this in mind and in order to contribute further to the development of the free trade area through the lowering of tariff barriers between our two countries, I should like to propose that the provisions set out in the following paragraphs should apply to trade between our two countries, and that the terms of this letter should be taken into consideration in formulating any future long term agreement between our two Governments on tariffs and tariff preferences:

1. In this letter, the terms "the Area", "Member State" and "territory" shall have the same meaning as they have in the New Zealand-Australia Free Trade Agreement 1965.

2. (a) Subject to subparagraphs (b) and (c) of this paragraph the provisions of this letter shall not apply to all goods traded within the Area.

(b) The provisions of paragraphs 3 and 4 of this letter shall not apply to goods which are or may be listed in schedule A of the New Zealand-Australia Free Trade Agreement.

(c) The provisions of this letter shall not apply to the items listed in the attached annex.

3. (a) Subject to subparagraph (b) of this paragraph neither Member State shall raise against the other Member State the substantive rates of import duties on goods traded within the Area above the rates applied to those goods on 31 January 1973.

(b) A Member State may raise the substantive rates of import duties against the other Member State on goods traded within the Area:

- (i) for purposes of revenue;
- (ii) in order to protect the development of its own industry and to prevent serious injury or the threat of serious injury to its producers of like or directly competitive products;

(c) Where a Member State proposes to raise substantive rates of import duties on goods for the purpose specified in subparagraph (b) (ii) of this paragraph, it shall, before raising

¹ Came into force on 7 May 1973, the date of the letter in reply, in accordance with the provisions of the said letters.

² United Nations, *Treaty Series*, vol. 554, p. 169.

those duties, consult with the other Member State, and, except in a case of urgency, ensure that an enquiry by a duly constituted tariff advisory body is held.

4. (a) A Member State, in determining the substantive rates of import duties to be applied to goods imported from the other Member State, shall request its tariff advisory bodies to recommend in respect of manufactured goods the lowest rate of import duties which is consistent with the need to protect its own producers of like or directly competitive products and which will at the same time permit reasonable competition in its market between manufactured goods which are produced in its own territory and imports of like goods or directly competitive goods from the other Member State.

(b) If, at the time of an enquiry in a Member State by a tariff advisory body in respect of a manufactured product, there is no existing industry in that product in the other Member State, the first Member State shall set the substantive rate of import duty for that product in respect of the other Member State at free.

(c) Where a substantive rate has been set at free in accordance with subparagraph (b) of this paragraph, it shall be subject to review by a tariff advisory body on commencement of an industry in that product in the other Member State.

(d) Where the substantive rate of import duty for a manufactured product has been set at free under subparagraph (b) of this paragraph by a Member State, the other Member State shall, where there is reasonable evidence of export potential, notify the first Member State of the commencement of industry in that product or in a directly competitive product whereupon that Member State may request its tariff advisory bodies to recommend in respect of that product or directly competitive product a substantive rate of import duty which is in accordance with the criteria contained in subparagraph (a) of this paragraph.

5. (a) The Government of Australia shall, in respect of items in the protected area which are not affected by its tariff restructuring programmes or which are not affected by action taken by it on a recommendation of a tariff advisory body and in respect of which the margin of preference at 31 January 1973 was higher than 15 percent, maintain for New Zealand that higher margin of preference.

(b) The Government of New Zealand shall, in respect of items in the protected area which are not affected by its tariff restructuring programmes or which are not affected by action taken by it on a recommendation of a tariff advisory body, and in respect of which the margin of preference at 31 January 1973 was higher than 10 percent, maintain for Australia that higher margin of preference.

(c) The Government of Australia in setting its substantive rates of import duties, whether under its tariff restructuring programmes or as a consequence of action taken by it on a recommendation of a tariff advisory body, shall maintain for New Zealand:

- (i) in respect of items in the protected area and subject to the provisions of subparagraph (e) of this paragraph a margin of preference of at least 15 percent *ad valorem*, except that where the margin of preference at 31 January 1973 was lower than 15 percent *ad valorem* then that lower margin of preference shall be the minimum margin;
- (ii) in respect of items in the non-protected area a margin of preference of at least 5 percent *ad valorem*, except that where the margin of preference at 31 January 1973 was lower than 5 percent *ad valorem* then that lower margin of preference shall be the minimum margin.

(d) The Government of New Zealand in setting its substantive rates of import duties, whether under its tariff restructuring programmes or as a consequence of action taken by it on a recommendation of a tariff advisory body, shall maintain for Australia:

- (i) in respect of items in the protected area and subject to the provisions of subparagraph (e) of this paragraph a margin of preference of at least 10 percent *ad valorem*, except that where the margin of preference at 31 January 1973 was lower than 10 percent *ad valorem* then that lower margin of preference shall be the minimum margin;

(ii) in respect of items in the non-protected area a margin of preference of at least 5 percent *ad valorem*, except that where the margin of preference at 31 January 1973 was lower than 5 percent *ad valorem* then that lower margin of preference shall be the minimum margin.

(e) (i) Where a tariff advisory body in either Member State is requested to recommend protective rates of duty, it shall also be requested to make a recommendation as to the rate to be applied to imports from the other Member State in accordance with the criteria contained in paragraph 4 (a) of this letter. In cases where the difference between the recommended MFN rate and the rate recommended for imports from the other Member State is lower than the margin of preference specified in subparagraph (c) (i) or (d) (i) of this paragraph as the case may be, the relevant tariff advisory body shall be asked to state the basis for its recommendation.

(ii) Before implementing a recommendation which would introduce a margin of preference lower than that specified in subparagraphs (c) (i) or (d) (i) of this paragraph, the Member State concerned shall consult with the other Member State.

(f) A Member State may with the consent of the other Member State set a margin of preference lower than those specified in subparagraphs (c) (ii) and (d) (ii) of this paragraph for specific items of nil or negligible export interest to the other Member State.

(g) In this paragraph the term "tariff restructuring programmes" shall mean any restructuring of the tariff in either Member State which is not referred in that Member State to a tariff advisory body, and includes tariff adjustments arising out of multilateral trade negotiations.

6. (a) Nothing in this letter shall preclude a Member State from granting concessionary or by-law entry for goods.

(b) Where a Member State has an important or substantial trade interest in an item or part item in respect of which concessionary or by-law entry has been given by the other Member State, the other Member State shall give favourable consideration to representations made by the first Member State for the application of a margin of preference in its favour of at least 5 percent in respect of the particular goods.

7. (a) The Member States shall consult on any matter which concerns the implementation and operation of the provisions of this letter, and which is raised by one Member State with the other Member State in writing.

(b) Not later than 1 July 1974 the Member States shall commence negotiations for an agreement dealing with the future preferential tariff arrangements between the Member States to replace the provisions of this letter.

If the foregoing is satisfactory to your Government, I should like to propose that this letter and your confirmatory reply thereto constitute an agreement between our two Governments to enter into force on the date of your reply, and to remain in force until 30 September 1974 unless our two Governments earlier agree to extend its duration or to replace it with another agreement.

Yours sincerely,

[Signed—Signé]¹
Minister of Trade and Industry

The Honourable Dr. J. F. Cairns
Minister for Overseas Trade
and Minister for Secondary Industry of Australia

¹ Signed by Warren Freer — Signé par Warren Freer.

ANNEX

<i>New Zealand Tariff Item</i>	<i>Description</i>
70.09.001	Rear view mirrors for motor vehicles
84.10.005	Pumps for motor vehicle engines
84.06.149	Vehicle engines (excl. cycles and tractors)
06.219	Parts for vehicle engines, excl. those for cycle or tractor engines, excl. pistons, cylinder sleeves, etc.
63.009	Crankshafts, camshafts, excl. cycle or tractor engines
85.08.001	Ignition coils
08.002	Sparking plugs
08.003	Distributors
08.009	Starter motors
08.011	Generators
08.019	Other elec. starting equipment and machinery
08.029	Parts of elec. starting and ignition equipment
85.09.002	Other lighting and signal equipment (for cycles and motor vehicles)
.009	Parts for goods 85.09.002
.011	Windscreen wipers
.019	Parts of windscreen wipers
.021	Defrosters and demisters
.029	Parts of defrosters and demisters
87.01.001	Unassembled road tractors
.009	Other road tractors
	<i>Unassembled cars</i>
87.02.001	Up to 1000 cc
02.002	1000-1600 cc
02.003	1600-2200 cc
02.004	2200-2800 cc
02.005	Over 2800 cc
02.009	With other than piston engines
	<i>Cars other than unassembled</i>
02.011	Up to 1000 cc
02.012	1000-1600 cc
02.013	1600-2200 cc
02.014	2200-2800 cc
02.015	Over 2800 cc
02.019	O/T piston engines
02.101	Unassembled electric trolley buses
02.109	Assembled electric trolley buses
02.111	Other unassembled buses
02.121	Assembled convertible railroad coaches
02.129	Other kinds of assembled buses
02.211	Vans (unassembled) up to 10,000 lbs
02.219	Other unassembled vehicles up to 10,000 lbs
02.229	Other unassembled vehicles over 10,000 lbs
02.231	Other vans up to 10,000 lbs
02.239	Other vehicles up to 10,000 lbs O/T unassembled
02.249	Other vehicles over 10,000 lbs O/T unassembled
87.03.001	Fire engines and fire escapes
87.03.009	Other

New Zealand

<i>Tariff Item</i>	<i>Description</i>
03.019	Special purpose vehicles other than fire engines and fire escapes
87.04.001	Unassembled chassis for vehicles of 87.02.001 to 87.02.019
04.009	Other chassis for vehicles 87.02.001 to 87.02.019
04.101	Chassis with engines as approved
04.109	Other
04.111	Unassembled chassis for vehicles O/T elec. propelled
04.119	Chassis for vehicles other than elec. propelled and other than unassembled
87.05.000	Bodies for vehicles 87.01, 87.02, 87.03
87.06.001	Chassis electric vehicles
.009	Other
.011	Heaters for vehicles 87.01, 87.02, 87.03
.021	Radiators for vehicles 87.01, 87.02, 87.03
.031	Mufflers 87.01, 87.02, 87.03
.041	Parts of unhardened vulcanised rubber, plastic
.059	Other parts, other than for air cushion vehicles or tractors
87.07.002	Straddle carriers

II

MINISTER FOR OVERSEAS TRADE
PARLIAMENT HOUSE
CANBERRA

My dear Minister,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

[See letter I]

I have the honour to confirm that your proposal is satisfactory to the Government of Australia and that your letter and my present reply shall constitute an agreement between our two Governments to enter into force on today's date.

Yours sincerely,

J. F. CAIRNS

The Honourable W. W. Freer
Minister of Trade and Industry
Parliament House
Wellington, New Zealand

[Annex as under letter I]