

No. 19629

AUSTRALIA
and
NEW ZEALAND

Exchange of letters constituting an agreement on tariffs and tariff preferences. Canberra and Wellington, 25 November 1977

Exchange of letters constituting an agreement extending the above-mentioned Agreement. Canberra and Wellington, 12 August 1980

Authentic texts: English.

Registered by Australia on 11 March 1981.

AUSTRALIE
et
NOUVELLE-ZÉLANDE

Échange de lettres constituant un accord relatif aux tarifs douaniers et aux préférences tarifaires. Canberra et Wellington, 25 novembre 1977

Échange de lettres constituant un accord prorogeant l'Accord susmentionné. Canberra et Wellington, 12 août 1980

Textes authentiques : anglais.

Enregistrés par l'Australie le 11 mars 1981.

EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF NEW ZEALAND ON TARIFFS AND TARIFF PREFERENCES

I

MINISTER FOR OVERSEAS TRADE

CANBERRA

25 November 1977

My dear Minister,

I refer to the Agreement between our two Governments constituted by an exchange of letters dated 7 May 1973 concerning tariffs and tariff preferences.² Both Governments have recognised that this Agreement has been of mutual benefit to Australia and New Zealand by maintaining traditional tariff preference links and by furthering the objectives of the New Zealand-Australia Free Trade Agreement 1965³ in contributing to the development of the Free Trade Area through lowering of tariff barriers to trans-Tasman trade. In the light of the recent confirmation by both Governments of their determination to maintain and develop the special trade and economic relations between Australia and New Zealand and their renewed commitment to the New Zealand-Australia Free Trade Agreement 1965, I propose that the provisions set out in this letter should apply to trade between our two countries.

1. In this Agreement:

(a) The terms "the area", "Member State" and "territory" have the same meaning as they have in the New Zealand-Australia Free Trade Agreement 1965

(b) The term "margin of preference" in relation to imported goods means:

- (i) In the case of Australia, the difference between the general rate of duty imposed on the goods being the rate set out in column 3 in the tariff classification that applies to those goods in part II of schedule 1 of the Customs Tariff Act 1966 (or any rate substituted for such general rate), and the rate of duty imposed on goods of that kind that are the produce or manufacture of New Zealand;
- (ii) In the case of New Zealand, the difference between the normal tariff rate of duty imposed on the goods being the rate set out in the first schedule of the Customs Acts Amendment Act 1974 (or any rate substituted for such normal tariff rate) and the rate of duty imposed on goods of that kind that are the produce or manufacture of Australia.

2. (a) Subject to the provisions of subparagraph (b) of this paragraph the provisions of this Agreement shall apply to all goods traded within the Area.

(b) The provisions of paragraphs 3 and 4 of this Agreement shall not apply to goods which are listed in schedule A as amended from time to time of the New Zealand-Australia Free Trade Agreement 1965.

¹ Came into force on 1 December 1977, in accordance with the provisions of the said letters.

² United Nations, *Treaty Series*, vol. 904, p. 123.

³ *Ibid.*, vol. 554, p. 169.

3. (a) Subject to the provisions of subparagraph (b) of this paragraph and to the provisions of paragraph 6 of this Agreement 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 or 30 November 1977, whichever is the higher.

(b) Subject to the provisions of paragraph 7 of this Agreement, a Member State may raise the substantive rates of import duties against the other Member State on any goods traded within the area above the rates applied to those goods on 31 January 1973 or 30 November 1977

- (i) For revenue purposes; or
- (ii) In order to protect the development of its own industry or to prevent serious injury or the threat of serious injury to its producers of like or directly competitive goods.

4. A Member State, in determining the substantive rates of import duties to be applied to goods imported from the other Member State, shall request the appropriate tariff advisory body 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 goods 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.

5. (a) Subject to the provisions of subparagraph (c) of this paragraph and to the provisions of paragraph 6 of this Agreement, a Member State in changing its substantive rates of import duties in respect of all goods in the protected area shall maintain a margin of preference which shall be as a minimum whichever is the lowest of 15% *ad valorem*, the margin operative at 31 January 1973, or the margin operative at 30 November 1977.

(b) Subject to the provisions of subparagraph (c) of this paragraph and to the provisions of paragraph 6 of this Agreement, a Member State in changing its substantive rates of import duties in respect of goods in the non-protected area:

- (i) Will not be obliged to extend a margin of preference to goods from the other Member State, in respect of which that other Member State has no substantial or important trade interest;
- (ii) Shall, for goods in which the other Member State has a substantial or important trade interest, maintain a margin of preference which shall be as a minimum whichever is the lowest of 5% *ad valorem*, the margin operative at 31 January 1973, or the margin operative at 30 November 1977.

(c) Subject to the provisions of paragraph 7 of this Agreement, a Member State may establish margins of preference lower than the minimum margins of preference specified in subparagraphs (a) and (b) (ii) of this paragraph in connection with tariff changes made for revenue purposes.

6. If a Member State considers that particular circumstances require the establishment of substantive rates of import duties above those provided for in paragraph 3 of this Agreement, or the establishment of margins of preference lower than the margins of preference specified in subparagraphs 5 (a) and (b) of this Agreement, then, subject to the provisions of paragraph 7 of this Agreement, it may establish such rates or margins.

7. (a) If a Member State takes action under the provisions of subparagraph 3 (b) (i) or subparagraph 5 (b) of this Agreement, it shall inform the other Member State as soon as possible.

(b) If a Member State proposes to take action under the provisions of subparagraphs 3 (b) (ii), 5 (b) (i) or paragraph 6 of this Agreement, then, before taking such action, a Member State shall, unless there are exceptional circumstances:

- (i) Ensure that an enquiry by a tariff advisory body has been held; and

- (ii) Inform the other Member State of the action proposed; and
- (iii) On the request of the other Member State enter into consultations with that other Member State with a view to ensuring that any relevant points made by that other Member State regarding the implications of the action proposed are taken into account.

(c) Where consultations have been entered into pursuant to the provisions of subparagraph (b) (iii) of this paragraph, the Member State proposing to take action under the provisions of subparagraphs 3 (b) (ii), 5 (b) (i) or paragraph 6 of this Agreement shall not do so until the expiry of the fourteenth day from the date on which the other Member State was informed pursuant to subparagraph (b) (ii) of this paragraph of the action proposed.

(d) Where a Member State has taken action under the provisions of subparagraph (a) of this paragraph, or under the provisions of subparagraph (b) of this paragraph and because of exceptional circumstances it has not been possible to enter into consultations pursuant to the provisions of subparagraph (b) (iii) of this paragraph, then that Member State shall if requested by the other Member State enter into consultations with that other Member State with a view to minimising the adverse effect of the action taken on the trade of that other Member State.

(e) Where a Member State has requested consultations under the provisions of subparagraph (b) (iii) or (d) of this paragraph and in the opinion of that Member State the consultations have not been effective in minimising the adverse effect on the trade of that Member State of the action taken by the other Member State, then the first Member State, after giving notice in writing to the other Member State, and if no other mutually satisfactory solution can be found, may take compensatory action to the extent that the value of the concessions affected by such compensatory action is substantially equivalent to the value of concessions affected by the action taken by the other Member State.

(f) In considering action under this paragraph the Member States shall bear in mind the intention that this Agreement should further the objectives of the New Zealand-Australia Free Trade Agreement 1965 by contributing to the development of the Free Trade Area through lowering of tariff barriers to trans-Tasman trade.

8. (a) Nothing in this Agreement shall preclude either Member State from granting concessionary or by-law entry of any goods.

(b) Where a Member State has a substantial or important trade interest in any goods in respect of which concessionary or by-law entry has been given by the other Member State, that 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% *ad valorem* in respect of the particular goods.

9. The Member States shall consult on any matter which concerns the implementation and operation of the provisions of this Agreement and which is raised by one Member State with the other Member State in writing.

10. (a) This Agreement shall remain in force for an initial period of three years.

(b) The Member States shall jointly review the provisions and operation of this Agreement before the end of the third year and the conditions under which the Agreement would be extended for a further period.

(c) Unless terminated earlier, this Agreement shall remain in force until but not beyond the date the New Zealand-Australia Free Trade Agreement 1965 terminates.

If the foregoing is satisfactory to your Government, I should like to propose that this letter and your confirmatory reply should constitute an Agreement on

Tariffs and Tariff Preferences between our two Governments to enter into force on 1 December 1977.

Yours sincerely,

[Signed]

J. D. ANTHONY

Rt. Hon. B. E. Talboys
Minister of Overseas Trade
Wellington, New Zealand

II

OFFICE OF THE MINISTER OF OVERSEAS TRADE

WELLINGTON

25 November 1977

My dear Minister,

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

[See letter I]

I have the honour to confirm that the foregoing is acceptable to the Government of New Zealand and that your letter and this reply should be regarded as constituting an agreement between our two Governments to enter into force on 1 December 1977.

Yours sincerely,

[Signed — Signé]¹

Minister of Overseas Trade

Rt. Hon. J. D. Anthony
Minister of Overseas Trade
Canberra

¹ Signed by Brian Talboys — Signé par Brian Talboys.

EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT¹
BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE
GOVERNMENT OF NEW ZEALAND EXTENDING THE
AGREEMENT OF 25 NOVEMBER 1977 ON TARIFFS AND
TARIFF PREFERENCES²

I

MINISTER FOR TRADE AND RESOURCES

CANBERRA

12 August 1980

Dear Mr. Talboys,

I have the honour to refer to the Exchange of Letters of 25 November 1977 constituting an agreement between the Government of Australia and the Government of New Zealand on tariffs and tariff preferences.² This Agreement was to remain in force for an initial period of 3 years until 30 November 1980, prior to which time its provisions, operation, and the conditions under which it would be extended were to be reviewed.

At the conclusion of their meeting held on 20-21 March 1980, our two Prime Ministers agreed that the Agreement should continue unchanged for a further period of at least one year while detailed exploration and examination of possible arrangements for a closer economic relationship between Australia and New Zealand is being made by our two Governments.

Accordingly I propose that the Agreement on Tariffs and Tariff Preferences should remain in force for a period of one year from 1 December 1980 and that prior to 1 December 1981 its provisions, operation and the conditions under which it would be extended be reviewed jointly by the Government of Australia and the Government of New Zealand.

If the foregoing is acceptable to the Government of New Zealand, I propose that this letter and your confirmatory reply should constitute an agreement between our two Governments to enter into force on 1 December 1980.

Yours sincerely,

[Signed]

J. D. ANTHONY

The Rt. Hon. B. E. Talboys, M.P.
Minister of Overseas Trade
Wellington, New Zealand

¹ Came into force on 1 December 1980, in accordance with the provisions of the said letters.

² See p. 66 of this volume.

II

OFFICE OF THE MINISTER OF OVERSEAS TRADE

WELLINGTON

12 August 1980

Dear Mr. Anthony,

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

[See letter I]

I have the honour to confirm that the foregoing is acceptable to the Government of New Zealand and that your letter and this reply should be regarded as constituting an agreement between our two Governments to enter into force on 1 December 1980.

Yours sincerely,

*[Signed — Signé]*¹

Minister of Overseas Trade

The Rt. Hon. J. D. Anthony, M.P.
Minister for Trade and Resources
Canberra

¹ Signed by Brian Talboys — Signé par Brian Talboys.