

factory overheads, and inner containers.

3. Where a Member State considers that in relation to particular goods partly manufactured in its territory the application of paragraph 1(c)(ii) of this Article is inappropriate, then that Member State may request in writing consultations with the other Member State to determine a suitable proportion of the factory or works cost different from that provided in paragraph 1(c)(ii) of this Article. The Member States shall consult promptly and may mutually determine for such goods a proportion of the factory or works cost different to that provided in paragraph 1(c)(ii) of this Article.

Article 4

Tariffs

1. Goods originating in the territory of a Member State which in the territory of the other Member State were free of tariffs on the day immediately before the day on which this Agreement enters into force or which subsequently become free of tariffs shall remain free of tariffs.

2. No tariff shall be increased on any goods originating in the territory of the other Member State.

3. Tariffs on all goods originating in the territory of the other Member State shall be reduced in accordance with paragraph 4 of this Article and eliminated within five years from the day on which this Agreement enters into force.

4. If, on the day immediately before the day on which this Agreement enters into force, goods originating in the territory of the other Member State are:

- (a) subject to tariffs not exceeding 5 per cent ad valorem or tariffs of equivalent effect, they shall be free of tariffs from the day on which this Agreement enters into force;
- (b) subject to tariffs of more than 5 per cent but not exceeding 30 per cent ad valorem or tariffs of equivalent effect, tariffs on those goods shall be reduced on the day on which this Agreement enters into force by 5 percentage points and rounded down to the nearest whole number where fractional rates are involved. Thereafter, tariffs shall be reduced by 5 percentage points per annum; or
- (c) subject to tariffs of more than 30 per cent ad valorem or tariffs of equivalent effect, tariffs on those goods shall be reduced on the day on which this Agreement enters into force and annually thereafter by an amount calculated by dividing by six the tariff applying to the goods on the day immediately before the day on which this Agreement enters into force and rounding to the nearest whole number, with an additional deduction being made, where necessary, at the time of the first reduction so that tariffs are eliminated over a five-year period. A fraction of exactly one-half per cent shall be rounded to the higher whole number.

5. For the purposes of paragraph 4 of this Article, the term "tariffs of equivalent effect" shall mean tariffs which are not expressed solely in ad valorem terms. Where goods are subject to such tariffs, for the purposes of determining which of the subparagraphs (a), (b) or (c) of paragraph 4 of this Article shall apply to those goods, those tariffs shall be deemed to be equivalent to the ad valorem rates obtained by expressing the tariff as a

percentage of the assessed unit value of the goods imported from the other Member State in the year ending 30 June 1982. If in that year there have been no imports of those goods from the other Member State or, if in the opinion of the Member State which is making adjustments to its tariffs the imports of those goods were not representative of the usual and ordinary course of trade between the Member States in those goods, the Member State making the adjustment shall take account of the imports from the other Member State in the previous year. If this is insufficient to represent the usual and ordinary course of trade between the Member States in those goods then global imports shall be used to determine the adjustment on the same basis.

6. Where in this Article reference is made to goods being subject to a tariff on the day immediately before the day on which this Agreement enters into force, it shall in relation to the Australian Tariff mean the simplified Tariff that would have been effective from 1 January 1983 in the absence of this Agreement.

7. Where in this Agreement reference is made to:

- (a) a Tariff Heading, it shall in relation to the Australian Tariff mean an Item; and
- (b) a Tariff Item, it shall in relation to the Australian Tariff mean a Sub-Item, Paragraph or Sub-Paragraph as the case may be.

8. A Member State may reduce or eliminate tariffs more rapidly than is provided in paragraph 4 of this Article.

9. Tariffs on goods originating in New Zealand and imported into Australia shall in no case be higher than the lowest tariff applicable to the same goods if imported from any third country other than Papua New Guinea or countries eligible for any concessional tariff treatment accorded to less developed countries.

10. Tariffs on goods originating in Australia and imported into New Zealand shall in no case be higher than the lowest tariff applicable to the same goods if imported from any third country other than the Cook Islands, Niue, Tokelau and Western Samoa or countries eligible for any concessional tariff treatment accorded to less developed countries.

11. In any consideration of assistance and protection for industry a Member State:

- (a) shall set the tariff at the lowest tariff which:
 - (i) is consistent with the need to protect its own producers or manufacturers of like or directly competitive goods; and
 - (ii) will permit reasonable competition in its market between goods produced or manufactured in its own territory and like goods or directly competitive goods imported from the territory of the other Member State;
- (b) in forwarding a reference to an industry advisory body, shall request that body to take account of sub-paragraph (a) of this paragraph in framing its recommendations;
- (c) wherever practicable, shall not reduce the margins of preference accorded the other Member State; and
- (d) shall give sympathetic consideration to maintaining a margin of preference of at least 5 per cent for the other Member State when reducing normal or general tariffs either substantively or by by-law or concession on goods of significant trade interest to that Member State.

12. For the purpose of paragraph 11 of this Article "Margin of Preference" means:

- (i) in the case of Australia, the difference between the General tariff imposed on goods and the tariff imposed on the same goods originating in New Zealand; and
- (ii) in the case of New Zealand, the difference between the Normal tariff imposed on goods and the tariff imposed on the same goods originating in Australia.

13. In this Article "Tariff" shall include any customs or import duty and charge of any kind imposed in connection with the importation of goods, including any form of primage duty, surtax or surcharge on imports, with the exception of:

- (a) fees or charges connected with importation which approximate the cost of services rendered and do not represent an indirect form of protection or a taxation for fiscal purposes;
- (b) duties, taxes or other charges on goods, ingredients and components, or those portions of such duties, taxes or other charges, which are levied at rates not higher than those duties, taxes or other charges applied to like goods, ingredients and components produced or manufactured in the country of importation;
- (c) premiums offered or collected on imported goods in connection with any tendering system in respect of the administration of quantitative import restrictions or tariff quotas;
- (d) duties applying to imports outside the established quota levels of goods subject to tariff quota, provided that paragraphs 9 and 10 and sub-paragraph 11(c) of this Article shall apply to such duties;
- (e) sales or like taxes or those portions of such taxes which do not exceed the taxes applied to like goods produced or manufactured in the country of importation;
- (f) charges imposed pursuant to Articles 14, 15, 16 or 17 of this Agreement; and
- (g) those by-law or concessionary rates which are mutually determined by the Member States.

Article 5

Quantitative import restrictions and tariff quotas

1. Goods originating in the territory of a Member State which in the territory of the other Member State were free of quantitative import restrictions or tariff quotas on the day immediately before the day on which this Agreement enters into force or which subsequently become free of such measures shall remain free.

2. No quantitative import restrictions or tariff quotas shall be intensified on goods originating in the territory of the other Member State.

3. Quantitative import restrictions and tariff quotas on all goods originating in the territory of the other Member State shall be progressively liberalised and eliminated.

4. Each Member State shall establish a base level of access for each grouping of goods subject to quantitative import restrictions or tariff quotas. This shall be the average annual level of imports of goods in each such grouping from the other Member State in the three year period ending 30 June 1981, except for those groupings of goods listed