

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(75) 633 final.

Brussels, 8 december 1975

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## CONCLUSION OF A RENEGOTIATION AGREEMENT WITH AUSTRALIA UNDER ARTICLE XXVIII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE

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(Commission Communication to the Council)





CONCLUSION OF A RENEGOTIATION AGREEMENT WITH AUSTRALIA UNDER  
ARTICLE XXVIII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE

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(Commission Communication to the Council)

The Commission hereby presents to the Council:

1. A report on the results of the renegotiations it has conducted with Australia under Article XXVIII of the General Agreement on Tariffs and Trade concerning modification by the Community of the concession on lead and zinc (Annex I).
2. A draft agreement containing the results of the renegotiation under Article XXVIII:1 of the General Agreement between the European Economic Community and Australia (Annex II).

The Article 113 Committee has delivered a favourable opinion on the results of the negotiations referred to above.

The Commission recommends that the Council conclude the renegotiation agreement with Australia under Article XXVIII of the General Agreement.

To this end it presents the draft proposal of regulation set out in Annex III.

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REPORT ON THE RESULTS OF THE RENEGOTIATIONS ON  
LEAD AND ZINC

I. Background

During the Article XXIV:6 and "Dillon" negotiations in 1962 and 1963 under the auspices of the GATT the Community bound the duty of 1,32 UA/100 kg for unwrought lead other (tariff position 78.01 A II) and unwrought zinc (tariff position 79.01 A).

Protocols no. 14 and 15 annexed to the Treaty of Accession provide that unwrought lead (other) and unwrought zinc should be subject from 1 January, 1974 to a duty of 4,5 % with a minimum applicable duty of 1,1 UA/100 kg. Since 1 January, 1975 the above duty is suspended and the applicable duty is 4,5 % with a minimum of 1,1 UA/100 kg and a maximum of 1,32 UA/100 kg in order to respect GATT obligations. This suspension is limited to 31 December, 1975 at the latest.

With a view to modifying the duty of 1,32 UA/100 kg on these two products, the Council by a decision of 2/3 December, 1974 authorised the Commission to undertake renegotiations in accordance with Article XXVIII:1 of the General Agreement.

In conformity with this decision the Commission notified the GATT Secretariat in December, 1974 of its desire to engage negotiations with the GATT Contracting Parties interested by this modification. The two principal countries to show such an interest are Canada and Australia, both primarily concerned in the two concessions.

II. The negotiations

The Community's intention in these negotiations has been to present this duty modification as the transformation of a specific duty into an ad valorem duty of an equivalent level, that is a simple technical modification.

In effect, during the accession negotiations the duty of 4,5 % could be considered as the equivalent of a duty of 1,32 UA/100 kg; this has not been the case since, given the sharp increase in the price of these two products during the years 1972, 73 and 1974. Since then, the introduction of an ad valorem duty of 4,5 % instead and in place of a specific duty of 1,32 UA/100 kg would have led to demands for substantial compensation on the part of our GATT partners. But, neither in the lead and zinc sector itself, nor in other sectors has the examination of possibilities for compensation led to useful results for the negotiations.

From statistics for the reference years 1971, 1972 and 1973 the following results appear:

<u>LEAD</u>		Quantity (tons)	Value (1000 UA)	Value per item (UA/100 kg)	Equivalent ad valorem
Averages 1971/73					
Total	EEC	221.042	63.714	28.78	4.59
Australia		52.380	15.048	28.73	4,59
Canada		52.447	15.586	29.70	4.44
<u>ZINC</u>					
Total	EEC	327.303	121.662	37.17	3.55
Australia		41.832	15.365	36.73	3.57
Canada		78.692	29.148	37.04	3,56

Taking into account these figures and on the basis of directives annexed to the Council decision, the Commission presented an initial offer to these two partners (Canada and Australia) consisting of an ad valorem duty of 4 % for lead and 3,5 % for zinc. In the view of the Community this offer would have permitted the modification of the specific duty of 1,32 UA/100 kg without the need for compensation on other products.

A series of negotiating meetings with Canadian and Australian authorities took place after March, 1975. These meetings showed that in the opinion of Canada and Australia the offer was clearly insufficient. These two countries contested the reference period taken into consideration by the Community (average 1971-72-73) and maintained that 1974 and possibly 1975 ought to be taken into consideration for the calculation of the incidence of the specific duty.

In this situation and with a view to terminating the negotiation, the Commission took the initiative of informing the two countries that it would be prepared to propose to the Council the conclusion of an agreement with them on the basis of a common level of 3,5 % for the two products on condition that it could indicate their agreement. The Commission representative stressed the political nature of this proposal and asked the representatives of the two countries to consider the proposal in this sense to avoid a fruitless quarrel on the reference period to take into consideration.

The Article 113 Committee delivered a favourable opinion on the Commission's initiative while emphasising that a greater concession would be excluded.

In the course of later meetings and contacts with the Canadian and Australian authorities only Canada continued to consider this offer insufficient and proposed to conclude an agreement on the basis of an ad valorem duty of 3,5% for lead and 3 % for zinc. As opposed to this Australia accepted the Community's improved offer of an ad valorem duty of 3,5 % for the two products.

At this stage, and given the urgency of adoption by the Council of the common Customs tariff for 1976 it has only been possible to include in the tariff the single autonomous duty level of 4,5 %. However, the Commission representative in COREPER stated that he reserved the right to make supplementary proposals in the light of the negotiations.

### III - Evaluation of the situation

The Community is now placed before a choice of either leaving matters as they are, involving for 1 January next the application of a duty of 4,5 % for both products, or to sign an agreement with Australia alone fixing a conventional duty of 3,5 % for the two products.

In the opinion of the Commission a number of arguments militate in favour of the second alternative :

- a) We would thereby reply to the equally political gesture of Australia who, although not entirely satisfied, nonetheless accepted our offer. In effect it would seem difficult to refuse an agreement with this country and to impose higher duties because it was not possible to reach agreement with another country for reasons unrelated to Australia.
- b) If we re-established a duty of 4,5 % it is almost certain that these countries would have recourse to the G.A.T.T. Our position would not be strong in this event since during the negotiations we have offered lower duty levels.
- c) The ad valorem duty of 3,5 % corresponds largely to the incidence of a specific duty of 1,32 UA/100 kg on the basis of figures covering the period 1971-74: lead 3,9 %; zinc 3,28 %. Canada would not therefore benefit gratuitously. On the other hand a complaint by Canada to the G.A.T.T. would not be well-founded either.

### IV - Conclusions

Taking the above considerations into account, the Commission proposes to conclude an agreement with Australian on the basis of an ad valorem duty of 3,5 % for lead and zinc, replacing the specific duty of 1,32 UA/100 kg bound in the G.A.T.T.

This agreement would terminate definitively for the Community the G.A.T.T. article XXVIII renegotiations on lead and zinc.

At its meeting on 21 November, 1975, the article 113 Committee delivered an opinion agreeing with the proposals of the Commission.



The document stating the results of the negotiations (Annex II) was initialled on

The date for entry into force in the common customs tariff of these new duties is 1 January, 1976.

ANNEX IICONFIDENTIELNEGOCIATIONS RELATIVES A LA LISTE LXXII - C.E.E.

Les délégations de la Commission des Communautés Européennes et de l'Australie ont achevé les négociations qu'elles ont menées au titre de l'article XXVIII : 1 en vue de la modification ou du retrait des concessions définies dans la liste LXXII - C.E.E., qui sont reproduites dans la note ci-jointe.

Pour la Délégation de la  
Commission des Communautés  
Européennes

(s)

Pour la délégation de l'Australie

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RESULTATS DES NEGOCIATIONS MENEES AVEC L'AUSTRALIE  
AU TITRE DE L'ARTICLE XXVIII : 1 EN VUE DE LA MODI-  
FICATION OU DU RETRAIT DE CONCESSIONS REPRISES DANS  
LA LISTE DE LA COMMUNAUTE ECONOMIQUE EUROPEENNE

LISTE LXXII - C.E.E.

CONCESSIONS A MODIFIER :

Position tarifaire	Désignation des marchandises	Taux des droits conso- lidés dans la liste existante
78.01	Plomb brut (même argentifère); déchets et débris de plomb : A. brut : II. autre	1,32 UC/100 kg poids net
79.01	Zinc brut; déchets et débris de zinc A. brut	1,32 UC/100 kg poids net

NOUVELLES CONCESSIONS :

Position tarifaire	Désignation des marchandises	Taux des droits à consolider
78.01	Plomb brut (même argentifère); déchets et débris de plomb : A. brut : II. autre	3,5 %
79.01	Zinc brut; déchets et débris de zinc A. brut	3,5 %

ANNEX IIIPROPOSAL OF REGULATION OF THE COUNCIL

on the conclusion of an agreement between the European Economic Community and Australia negotiated under Article XXVIII of the General Agreement on Tariffs and Trade and modifying the Common Customs Tariff on lead and zinc

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## THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community and in particular article 113 thereof,

Having regard to the proposal from the Commission,

Whereas the European Economic Community, in accordance with Article XXVIII of the General Agreement on Tariffs and Trade, has negotiated with Australia an agreement which modifies certain concessions of the Schedule LXXII - E.E.C. affecting this country,

Whereas this agreement should be concluded and consequently the Common Customs Tariff should be modified in accordance with this agreement

HAS ADOPTED THIS REGULATION :

Article 1

The Agreement negotiated with Australia under Article XXVIII of the General Agreement on Tariffs and Trade is hereby concluded on behalf of the European Economic Community. The text of the Agreement is annexed to this Regulation.

Article 2

The Contracting Parties to the General Agreement on Tariffs and Trade shall be notified on the conclusion of this Agreement.

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Article 3

From 1 January 1976, the duties of the Common Customs Tariff for unwrought lead, other (n° 78.01 A II) and unwrought zinc (79.01 A) are modified as follows :

Heading number	Description	Rate of duty	
		autonomous %	conventional %
78.01	Unwrought lead (including argentiferous lead); lead waste and scrap :		
	A. Unwrought :		
	II. Other	4,5 with a min. of 1,1 UA per 100 kg net weight	3,5
79.01	Unwrought zinc; zinc waste and scrap :		
	A. Unwrought	4,5 with a min. of 1,1 UA per 100 kg net weight	3,5

Done

For the Council  
The President

CONFIDENTIEL

NEGOCIATIONS RELATIVES A LA LISTE LXXII - C.E.E.

Les délégations de la Commission des Communautés Européennes et de l'Australie ont achevé les négociations qu'elles ont menées au titre de l'article XXVIII : 1 en vue de la modification ou du retrait des concessions définies dans la liste LXXII - C.E.E., qui sont reproduites dans la note ci-jointe.

Pour la Délégation de la  
Commission des Communautés  
Européennes

(s)

Pour la délégation de l'Australie

(s)

RESULTATS DES NEGOCIATIONS MENEES AVEC L'AUSTRALIE  
AU TITRE DE L'ARTICLE XXVIII : 1 EN VUE DE LA MODI-  
FICATION OU DU RETRAIT DE CONCESSIONS REPRISES DANS  
LA LISTE DE LA COMMUNAUTE ECONOMIQUE EUROPEENNE

LISTE LXXII - C.E.E.

CONCESSIONS A MODIFIER :

Position tarifaire	Désignation des marchandises	Taux des droits conso- lidés dans la liste existante
78.01	Plomb brut (même argentifère); déchets et débris de plomb : A. brut : II. autre	1,32 UC/100 kg poids net
79.01	Zinc brut; déchets et débris de zinc A. brut	1,32 UC/100 kg poids net

NOUVELLES CONCESSIONS :

Position tarifaire	Désignation des marchandises	Taux des droits à consolider
78.01	Plomb brut (même argentifère); déchets et débris de plomb : A. brut : II. autre	3,5 %
79.01	Zinc brut; déchets et débris de zinc A. brut	3,5 %