

# WORLD TRADE ORGANIZATION

G/L/101

4 September 1996

(96-3476)

**COUNCIL FOR TRADE IN GOODS**  
**19 September 1996**

Original: English

## FORMER TRUST TERRITORY OF THE PACIFIC ISLANDS

### Request for Renewal of Waiver

The following communication has been received from the Permanent Mission of the United States.

By the Decision of the CONTRACTING PARTIES of the GATT 1947 of 8 September 1948 (BISD II/9), the United States was granted a waiver of its obligations under paragraph 1 of Article 1 of the GATT 1947, for the provision of duty-free treatment to products of the Trust Territory of the Pacific Islands (TTPI) imported into the customs territory of the United States. The waiver was granted for an indefinite period. Pursuant to paragraph 1(b)(iii) of the GATT 1994, the waiver became part of the GATT 1994 when the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") entered into force on 1 January 1995. As provided for in paragraph 2 of the Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994, unless renewed, this waiver will expire on 31 December 1996, two years after entry into force of the WTO Agreement.

On July 18, 1947, the United States undertook the administration of the United Nations Trust Territory of the Pacific Islands which included the Marshall, Caroline, and Mariana Islands (except Guam). These islands were formerly held by Japan under mandate. During 1986, the Covenant establishing the Commonwealth of the Northern Mariana Islands ("Covenant"), an insular area of the United States, and Compacts of Free Association ("Compacts") with the United States for the Republic of the Marshall Islands, and the Federated States of Micronesia came into effect. In 1994, the Compact of Free Association with the United States for the Republic of Palau came into effect. With the entry into effect of the Compact with Palau and the agreement of the Trusteeship Council of the United Nations, the Trusteeship of the Pacific Islands was terminated on October 1, 1994.

Since the United States became the Administering Authority, exports of the former TTPI have been eligible to duty-free treatment in the customs territory of the United States, upon which such exports are substantially dependent. This treatment has been continued under the Covenant and Compacts.

The United States requests that Members recognize the exceptional circumstances of the former TTPI and extend the waiver for the period ending on 31 December 2006, in order to enable the United States to continue to provide duty-free access for eligible imports from the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

A waiver of paragraph 1 of Article I of the GATT 1994 is necessary so that the United States can continue to provide such duty-free treatment consistent with its international obligations. This request is made in accordance with the Guiding Principles to be followed in considering applications for waivers adopted on 1 November 1956; the Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994; and paragraphs 3 and 4 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization. The policy objectives and exceptional circumstances justifying a waiver are described below.

### ***Discussion***

Article I:2 of the GATT 1947 permits certain historical preferences in respect of duties and charges not in excess of the levels permitted under Article I:4. Article I:2 permits historical preferences “in force exclusively between two or more territories which on July 1, 1939 were connected by common sovereignty or relations of protection or suzerainty and which are listed in Annexes B, C, D.” Under this provision, the United States provides historical preferences to the U.S. Virgin Islands, Guam and American Samoa, which were U.S. possessions on July 1, 1939 and which are included in Annex D.

Since becoming the Administering Authority in 1947, the United States has sought to accord the former Trusteeship areas tariff preferences similar to those accorded to insular areas included in Annex D. This treatment has been continued under the Covenant and Compacts.

### **Purpose**

Initially, the United States established the system of preferential entry for the exports of these islands into the market of the United States as a means to ensure that the economies of the islands were not destabilized as a result of the change in administering authority from Japan to the United States. Over the longer term, the primary purpose of the system has been to promote the expansion of trade and the economic development of the beneficiaries in a manner consistent with the objectives of the GATT and with the trade, financial and development needs of the beneficiary countries, and not to raise barriers or to create difficulties for trade of other Members. This purpose has become all the more important as each of the former Trusteeship areas have recently become self-governing entities.

Under General Note 3(a)(iv) of the Harmonized Tariff Schedules of the United States, duty-free treatment is accorded to all products of the former TTPI, with some exceptions. Watches and watch movements, and certain fishery products are subject to quantity limitations, and buttons, certain textile, apparel, footwear and luggage products are subject to duty in some or all of former TTPI. Duty-free treatment is only accorded to the in-quota quantity of agricultural products subject to a tariff- rate quota.

The United States is seeking a renewal of the its waiver from paragraph 1 of Article I in order to continue to accord historical preferences to the former Trust Territory of the Pacific Islands consistent with its international obligations. The preferential treatment covered by the waiver ordinarily would have been covered by Article I:2 and Annex D but for the timing of the UN decision placing the islands under trusteeship. The waiver granted in 1948 under GATT 1947 is a recognition of these exceptional circumstances, circumstances which continue to this day.

### **Effect on other contracting parties**

The tariff preferences provided under the preferences in question do not create barriers or otherwise impede the trade of members due to the nature and small volume of the production and trade involved and of the underlying economic factors affecting such production and trade.

Trade figures provided in Annex 1 show that trade is not significant and has not displaced imports from other countries.

Effect on MFN and GSP

The program did not impede U.S. tariff negotiations in the Uruguay Round, in which a major objective was the zero-for-zero initiative for elimination of tariffs on a most-favored-nation basis. Preferences granted to U.S. insular possessions are independent of the U.S. GSP program as a matter of statute and a matter of policy.

Conclusion

The United States requests Members to give expeditious consideration to this request, and to decide to extend the waiver of the provisions of paragraph 1 of Article I of the General Agreement for the period ending 31 December, 2006. The United States is prepared to enter into consultations and to cooperate fully in providing additional information about the historical preferences granted to the former Trust Territory of the Pacific Islands and discussing the specific terms of the waiver.

ANNEX 1

**US Imports from the Trust Territory of the Pacific**

(Values in millions of dollars)

<i>Source</i>	<b>U.S. Imports</b>				
	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>
<b>Total U.S. Imports</b>	487,129	532,665	580,659	663,256	743,505
<b>Republic of the Marshall Islands</b>	3	8	11	8	13
<b>Federated States of Micronesia</b>	5	13	14	13	13
<b>Republic of Palau</b>	0	0	1	3	6
<b>Commonwealth of the Northern Mariana Islands</b>	254	295	308	332	428