

9. Is it necessary to include auto trade to meet the trade coverage envisaged in GATT Article XXIV:5? It is not clear that this is necessary. Must the trade between Canada and the United States be free on a statutory or de facto basis? Surely we could argue that de facto free trade over a period of twenty years is free trade. This issue should be analyzed very carefully. We have not attempted to do it in this paper.

10. If Canada included the automotive sector in a comprehensive bilateral agreement we would almost certainly have to reduce our tariffs on a preferential basis for the United States. If we did not meet the criteria of GATT Article XXV, Canada would have to seek a waiver under GATT Article XXIV to extend these preferences. Our present system does not require a waiver. The United States has had a GATT waiver since 1965. A GATT waiver requires approval by two-thirds of the Contracting Parties. It is considered highly unlikely that Canada would obtain approval of a waiver.

11. Even if Article XXIV criteria were met, other Contracting Parties might consider that moving from a remission based system to preferential duty free access would have the effect of raising a duty inconsistently with Article II (even though the remissions are not bound) they might then pursue their perceived right to seek concessions to restore the balance under Articles XXIV and XXVIII, and possibly XXIII.