

GENERAL AGREEMENT
ON TARIFFS AND
TRADE

ACCORD GENERAL SUR
LES TARIFS DOUANIERS
ET LE COMMERCE

RESTRICTED
LIMITED C

GATT/CP.3/19
5 May 1949

ORIGINAL: ENGLISH

Contracting Parties
Third Session

STATUS OF THE AGREEMENT AND PROTOCOLS

Formal confirmation of Declarations of the Contracting
Parties at the Third Session

As the Delegate for the Lebanon was not present at the time when Declarations were made by the Contracting Parties under Item 5 of the Agenda, it is suggested that these Declarations be now confirmed and put into final form at a meeting to be attended by all the contracting parties.

The following documents are attached:

- 1) Declaration accepting the reservation as to Article XXXV attached to the signature of the Union of South Africa to the Protocol modifying certain provisions;
- 2) Declaration concerning the signature by Southern Rhodesia of the Protocol modifying certain provisions and the special Protocol modifying Article XIV;
- 3) Declaration concerning the acceptance of the Protocol modifying Part I and Article XXIX by Southern Rhodesia;
- 4) A note on the decisions of the Contracting Parties concerning the Interpretative Note to Article XXIV in Annex I of the General Agreement.

1. DECLARATION ACCEPTING THE RESERVATION AS
TO ARTICLE XXXV ATTACHED TO THE SIGNATURE OF THE UNION
OF SOUTH AFRICA TO THE PROTOCOL MODIFYING CERTAIN PROVISIONS

REFERRING to the discussion during the Second Session of the CONTRACTING PARTIES of the views of the Government of the Union of South Africa regarding the Protocol Modifying Certain Provisions of the General Agreement, dated March 24, 1948, and particularly to the following statement by the Chairman on September 1, 1948:

"This proposal is that in view of the discussion which has been held we do not take any decision one way or another on the legal issue, but that we invite the Government of the Union of South Africa to sign the Protocol modifying certain provisions of the General Agreement on Tariffs and Trade, but with a reservation that they do not accept Article XXXV. We can agree now that, if the Government of South Africa signs the Protocol between now and our next session, we shall give sympathetic consideration to approval of the South African reservation at our next session without altering the legal situation as it now exists. This could then have the effect that the other Contracting Parties would continue to regard themselves as bound by and having the right to apply the provisions of Article XXXV, which do not require any of them to apply the General Agreement, or alternatively Article II of that Agreement, to another contracting party if there have not been tariff negotiations between the two parties and if either of the parties had made a declaration to that effect, while South Africa would continue to regard themselves as not being bound and would presumably apply the General Agreement to all contracting parties, irrespective of whether or not tariff negotiations have taken place between the parties".

TAKING NOTE of the signature of this Protocol on behalf of the Union of South Africa on February 16, 1949, with the reservation "that the Government of the Union of South Africa do not accept Section IV of the Protocol inserting a new Article XXXV in the General Agreement".

THE CONTRACTING PARTIES UNANIMOUSLY:

DECLARE that no objection is raised by any contracting party to this reservation, it being understood that the relevant relationships among the contracting parties will be as set forth in the above statement by the Chairman

AND INSTRUCT the Executive Secretary of the Interim Commission for the International Trade Organization to notify the Secretary General of the United Nations on their behalf that the reservation of South Africa has been examined at a meeting on 9th May, 1949, at which all the contracting parties were represented, and that no contracting party raised any objection to the said reservation.

2. DECLARATION CONCERNING THE SIGNATURE BY
SOUTHERN RHODESIA OF THE PROTOCOL MODIFYING CERTAIN
PROVISIONS AND THE SPECIAL PROTOCOL MODIFYING ARTICLE XIV

RECOGNIZING that it would be desirable, in the interest of uniformity, that the Government of Southern Rhodesia should sign the Protocol modifying Certain Provisions and the Special Protocol modifying Article XIV of the General Agreement on Tariffs and Trade, which were signed at Havana on 24 March, 1948: and

TAKING NOTE of the willingness of the Government of Southern Rhodesia to sign these Protocols provided it is allowed to elect to be governed by the provisions of Annex J to the General Agreement;

The CONTRACTING PARTIES request the Secretary General of the United Nations to accept the signature of the Government of Southern Rhodesia to these Protocols, notwithstanding the provisions of Section V of the Protocol modifying Certain Provisions and of Section IV of the Special Protocol modifying Article XIV;

AND DECLARE that as a consequence of its signing the Special Protocol modifying article XIV, the Government of Southern Rhodesia will be deemed to have exercised its right, under paragraph 1 (d) of Article XIV of the General Agreement as amended by the Special Protocol, to elect to be governed by the provisions of Annex J to the General Agreement in lieu of the provisions of paragraphs 1 (b) and 1 (c) of Article XIV as amended.

3. DECLARATION CONCERNING THE ACCEPTANCE OF
THE PROTOCOL MODIFYING PART I AND ARTICLE XXIX BY
SOUTHERN RHODESIA

TAKING NOTE that, on 19th November 1948, the Government of Southern Rhodesia notified the Secretary General of the United Nations of its acceptance of the Protocol signed at Geneva on 14th September, 1948, Modifying Part I and Article XXIX of the General Agreement on Tariffs and Trade, but that this notification was accompanied by the following statement:

"The Government of Southern Rhodesia desires to draw attention to the fact that it did not accept the Special Protocol amending Article XXIV of the General Agreement on Tariffs and Trade signed at Havana on the 24th day of March, 1948. Accordingly, while it is prepared in terms of Section I of the new Article XXIX to observe the general principles of Chapters I to VI inclusive and of Chapter IX of the Havana Charter, the Government of Southern Rhodesia desires to record that it finds the present form of the interpretative Note in Annexure P to paragraph 5 of Article 44 of the Havana Charter to be unacceptable, and, therefore, reserves its position with regard to Article XXIV of the General Agreement on Tariffs and Trade."; and

TAKING NOTE of the explanation by the representative of Southern Rhodesia, that the statement accompanying the instrument of acceptance by his Government of the Protocol modifying Part I and Article XXIX was not intended as a reservation to its acceptance of the Protocol and that his Government regards its acceptance as unconditionally binding,

THE CONTRACTING PARTIES UNANIMOUSLY DECLARE that the acceptance of Southern Rhodesia is valid and effective and instruct the Executive Secretary of the Interim Commission for the International Trade Organization to forward a copy of this Declaration to the Secretary General of the United Nations with reference to the communication of 8 February 1949 addressed by him to the contracting parties individually.

4. A NOTE ON THE DECISIONS OF THE CONTRACTING
PARTIES CONCERNING THE INTERPRETATIVE NOTE TO ARTICLE XXIV
IN ANNEX I.

The Contracting Parties are asked to confirm the following decisions:

- (i) That the Protocol of Rectifications to be drawn up at the present Session is to include a provision to modify the first of the two Interpretative Notes ad Article XXIV as follows:

"Paragraph 9

It is understood that the provisions of Article I would require that, when a product which has been imported into the territory of a member of a customs union or free-trade area at a preferential rate of duty is re-exported to the territory of another member of such union or area, the latter member should collect a duty equal to the difference between the duty already paid and the duty that would be payable if the product were being imported directly into its territory."

- (ii) That the Contracting Parties request the Executive Secretary of the Interim Commission of the International Trade Organization to bring to the notice of the International Trade Organization at the first opportunity after its establishment that the Interpretative Note to Article XXIV of the General Agreement has been modified as provided in paragraph (i) above and that the members of the Organization may desire to make a similar modification of the corresponding Note to Article 44 of the Havana Charter.