

GENERAL AGREEMENT
ON TARIFFS AND
TRADE

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LES TARIFS DOUANIERS
ET LE COMMERCE

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REPORT OF WORKING PARTY 4
ON THE SOUTH AFRICA-SOUTHERN RHODESIA
CUSTOMS UNION

REPORT TO THE CONTRACTING PARTIES

The Working Party examined the Interim Agreement for the re-establishment of a Customs Union between the Union of South Africa and Southern Rhodesia, in the light of the provisions of Article XXIV of the General Agreement, and gave consideration to the proposals concerning the length of time required for the attainment of the proposed union which were put forward by the representatives of the Union of South Africa and Southern Rhodesia at the meeting of the CONTRACTING PARTIES on 22 April 1949. As a result of this study, the Working Party submits for consideration by the CONTRACTING PARTIES the following information, comments and recommendations.

The Elimination of Tariffs and Restrictive Regulations between South Africa and Southern Rhodesia.

Article 5 of the Interim Agreement establishes that, subject to certain exceptions, animals and goods grown, produced or manufactured in the territory of either party are to be admitted free of customs duty into the territory of the other party.

In accordance with Article 6, a few Southern Rhodesian products, as set out in Annexure B, will remain subject to duty when imported into South Africa. Under Article 7 duties will be imposed in Southern

Rhodesia on a number of South African products enumerated in Annexure C. It is intended that import duties levied in accordance with Article 6 and 7, and also the export duties referred to in Article 9, will remain in force only during the transition period, and that, as envisaged in Article 8, negotiations will proceed for the elimination of these duties and the achievement of a free flow of trade between the two territories.

Annexure B.

The Working Party was informed that the duties which will be maintained on Southern Rhodesian products imported into South Africa, are lower than the m-f-n rates of the South African tariff; the rates on items 54, 57 and 58 are unchanged from the duties imposed on imports from Southern Rhodesia prior to 1st April 1949, and the rate on item 202 (1) has been imposed in lieu of the import permits previously required.

Annexure C.

The rates of duty which appear in column 4 are those that were imposed on South African products imported into Southern Rhodesia prior to 1st April 1949; in certain circumstances the margins of preference to South Africa may be reduced by the increase of these duties to the rates enumerated in column 5. None of the rates in column 5 is higher than the m-f-n rate of the tariff of Southern Rhodesia, and most of them are lower. The representative of Southern Rhodesia estimates that the items appearing in Annexure C comprised approximately 30% of total imports from South Africa in 1947.

The general principle that trade between the territories of the two parties to the Interim Agreement is to be free of quantitative restrictions is set out in Article 10. This principle will also be subject to certain exceptions during the transition period as provided in Articles 10, 11 and 12. The restrictions enumerated in Annexure D will be reviewed from time to time with a view to their removal. It is possible that a few controls of trade, particularly those provided in paragraph 3 of the Annexure, will be retained even after the re-establishment of the Customs Union.

The Working Party was informed that South Africa grants to products of Southern Rhodesian origin exception from the restrictions which have been imposed for balance-of-payments reasons, and that Southern Rhodesia has not imposed any restrictions on the import of South African products for balance-of-payments reasons.

2. The Establishment of a Common Tariff

The eventual application of substantially the same tariff by South Africa and Southern Rhodesia to the trade of other Contracting Parties is foreseen in Article 13 which provides that progressive adjustments of the m-f-n rates will be made with a view ultimately to securing uniformity. Article 13 further provides that the two Governments will endeavour wherever possible to apply the lower of the two rates at present in force. A schedule reflecting the duties which are at present divergent has been prepared and will be made available to the Secretariat for distribution to the Contracting Parties.

The representatives of South Africa and Southern Rhodesia indicated that their Governments have made no plans concerning the preferential rates of duty which individually they are permitted to apply to goods imported from some of the territories listed in Annex A of the General Agreement. The Working Party was informed that Southern Rhodesia grants preferential rates on many products but South Africa on only a few.

Several members of the Working Party expressed regret that the Interim Agreement does not provide a more definite indication of the steps that will be taken to bring about uniformity in the tariff to be applied to imports from other Contracting Parties, but they recognized that there are special circumstances to be taken into account.

The Working Party understands that the Governments of South Africa and Southern Rhodesia are likely to give consideration in the near future to the acceptance of the Special Protocol relating to Article XXIV, and may, consequently, become subject to the provisions of the Article as amended at Havana. When it is known whether the Protocol has been accepted, it will be necessary for the CONTRACTING PARTIES to review the obligations of the two Governments in respect of uniform tariff rates in the light of the requirements of the version of Article XXIV by which they are bound. The Working Party recommends that this review be undertaken when the first annual report of the Customs Union Council is available.

The provisions of Article 21 deal with the treatment of products which are only partially manufactured in South Africa or Southern Rhodesia. The manufactures of either territory have to comply with the conditions laid down in this Article in order to qualify for the special treatment contemplated in the Interim Agreement. The Working Party was informed that the South Africa-Southern Rhodesia Trade Agreement of 1935, which was terminated on 31 March, 1949, provided that up to 50% of the factory cost of finished products could represent labour and materials of countries not mentioned in Annex A of the General Agreement. Under the Interim Agreement 75% of the factory cost of some finished products may represent labour and materials of countries not mentioned in Annex A and only 25% need represent the products and labour of South Africa or Southern Rhodesia. To this extent preferential treatment has been reduced, and more favourable treatment is now accorded to other Contracting Parties.

3. Trade Regulations

It is the intention of the two parties to the Interim Agreement that their respective regulations on all trade and customs matters, including methods of determining value for customs purposes, shall be made uniform. In this connection attention is drawn to the Preamble, to Articles 10, 12, 17, 23(c) and, particularly, to Article 20.

4. Other Transitional Measures

The articles of the Interim Agreement which contain provisions relating solely to action to be taken by the two Governments during the transition period include Articles 14 to 18 and 22 to 24.

5. Relations with Neighbouring Territories

It is provided in Article 25 that the Territory of South West Africa is to be regarded as part of the Union of South Africa. This territory has been administered as a part of the South African customs

territory for more than 25 years, and is named as being included in the Union of South Africa in Annex A of the General Agreement.

The Interim Agreement provides, in Article 3 and elsewhere, for the possible extension of the customs union to other African states or territories. Four neighbouring territories are mentioned in the Agreement, namely, the Colony of Northern Rhodesia and the Protectorates of Basutoland, Swaziland and Bechuanaland. The representatives of South Africa and Southern Rhodesia furnished the following information concerning the existing commercial relations between their countries and these four territories. Since 1910 South Africa has had a complete customs union with the three Protectorates - there are no customs barriers and documentation is not required for the movement of merchandise except in the case of liquors removed from the Union to the Protectorates. Since 1930 South Africa has had a customs agreement with Northern Rhodesia which provides for the free interchange of domestic produce (with a few exceptions) and financial adjustments in respect of duties collected. A similar customs agreement has been in force between Southern and Northern Rhodesia since 1933. With the three Protectorates, Southern Rhodesia has only a very small trade, and this is regulated by customs agreements of long standing.

The possibility of South Africa or Southern Rhodesia entering into a separate customs union with a third country is mentioned in Articles 6 (d) and 7 (f), but the Working Party was assured that no such development would be permitted to interfere with or delay the achievement of the union envisaged in this Agreement.

6. A Plan and Schedule for the Completion of the Customs Union.

The representatives of South Africa and Southern Rhodesia explained the problems involved in the re-establishment of this customs

union which make it difficult to formulate at this stage a definite schedule or time-table for the various steps that will be taken towards the removal of the customs barriers between the two countries and the adoption of substantially the same tariff and regulations in respect of imports from other Contracting Parties. The main difficulty arises from the development of secondary industries in Southern Rhodesia during the last war; many of these are competitive with longer-established enterprises in South Africa, and if they were deprived immediately of all protection they could not survive and unemployment would result. The Government of Southern Rhodesia believes, and the Government of South Africa concurs in this opinion, that these industries could be established on a sound economic basis provided they are protected during the early years of their development.

Although no specific schedule is included in the Interim Agreement, as required by Article XXIV, the representative of South Africa proposed at the meeting of the CONTRACTING PARTIES on 22 April, and this proposal was repeated to the Working Party, that the two governments would undertake:

- a) to complete the re-establishment of the customs union not later than 1 April 1959;
- b) to submit to the CONTRACTING PARTIES a definite plan and schedule for the second five year period not later than 1 July 1954;
- c) to submit to the CONTRACTING PARTIES a progress report not later than 1 July 1952;
- d) to supply to the CONTRACTING PARTIES not later than 1 July of each year copies of the annual report of the Customs Union Council, the first report to be submitted in 1950.

These four proposals were discussed by the Working Party. Several members thought that the period of ten years was longer than should generally be fixed for the completion of a customs union, but it was recognized that in connection with each proposed union the characteristics of the economies of the countries concerned will have to be taken into account. With that consideration in mind, and in the light of the circumstances described in the first paragraph of this section, the Working Party agreed not to press its criticism of the ten year period. Furthermore, the Working Party took into account the assurances of the representatives of South Africa and Southern Rhodesia that it was the desire of their Governments to bring about the completion of the union more expeditiously if that should prove at all possible.

The Working Party welcomes the proposal of the two Governments to submit to the CONTRACTING PARTIES a progress report after three years, a definite plan and schedule after five years, and copies of the annual reports of the Customs Union Council, and strongly recommends that the CONTRACTING PARTIES should formally request the two Governments to instruct the Council to include in each annual report a programme of the steps to be taken during the ensuing twelve months towards the attainment of the full customs union. Further, the Working Party recommends that the relationship of this Interim Agreement to the provisions of the General Agreement on Tariffs and Trade should be placed on record by means of the Declaration attached to this Report.

7. General Questions of Procedure

It was suggested at the meeting of the CONTRACTING PARTIES when the Working Party was appointed that its terms of reference might include an examination of the procedure to be established for the

implementation of Article XXIV. The Working Party discussed this question and reached the conclusion that consideration by the CONTRACTING PARTIES of proposals for customs unions would have to be based on the circumstances and conditions of each proposal and, therefore, that no general procedures can be established beyond those provided in the Article itself.

DECLARATION CONCERNING THE CUSTOMS UNION AGREEMENT
BETWEEN THE GOVERNMENTS OF THE UNION OF SOUTH AFRICA AND
SOUTHERN RHODESIA

TAKING NOTE of the Interim Agreement concluded by the Governments of the Union of South Africa and Southern Rhodesia directed to the re-establishment of a customs union, dated 6 December 1948 and made effective on 1 April 1949; and

TAKING NOTE of the undertaking of the two Governments, (a) to furnish to the CONTRACTING PARTIES not later than 1 July in each year copies of each annual report of the Southern Africa Customs Union Council, established in terms of Article 2 of the said Agreement, (b) to submit to the CONTRACTING PARTIES not later than 1 July 1952 a report on the progress achieved towards the elimination of tariffs and other restrictive regulations of commerce between their territories and towards the application of the same tariffs and other regulations of commerce to the trade of the territories of other Contracting Parties, (c) to submit to the CONTRACTING PARTIES not later than 1 July 1954 a definite plan and schedule for the completion of the said union, and (d) to complete the re-establishment of the said union as soon as possible and in any case not later than 1 April 1959;

THE CONTRACTING PARTIES

DECLARE that the Governments of the Union of South Africa and Southern Rhodesia are entitled to claim the benefits of the provisions of Article XXIV of the General Agreement on Tariffs and Trade relating to the formation of customs unions;

REQUEST the Governments of the Union of South Africa and Southern Rhodesia to instruct the Customs Union Council to include in each annual report a definite plan and schedule of the steps to

be taken during the ensuing twelve months towards the re-establishment of the said union, and

DECIDE to review the above Declaration if, after study of reports and plans submitted by the two Governments, they find at any time that the Interim Agreement is not likely to result by 1 April 1959 in the establishment of a customs union in the sense of Article XXIV.

