

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES

Tenth Session

THE NEW TARIFF OF THE FEDERATION OF RHODESIA AND NYASALAND AND THE NEW TRADE AGREEMENTS WITH THE UNION OF SOUTH AFRICA AND AUSTRALIA

Report of the Working Party

1. In accordance with its terms of reference, the Working Party examined the new Federation Tariff and the Trade Agreements between the Federation and the Union of South Africa and the Federation and Australia. The examination took into consideration the Report of the Working Party on Schedules adopted by the CONTRACTING PARTIES at their Ninth Session (L/293) and was conducted on the basis of the information supplied by the governments involved (L/345, L/376, L/381 and Addendum 1, L/394 and L/418) as well as their supplementary oral statements, and data contained in the note by the Executive Secretary (L/426).
2. The Working Party appointed a sub-group to examine:
 - (a) the effect of the new Federation tariff on the general level of tariffs previously maintained by the constituent territories;
 - (b) the extent and nature of the changes in preferential margins arising out of the new tariff and out of the revised trade agreements of 31 July 1955 between the Federation on the one hand and the Union of South Africa and Australia on the other hand.
3. The results of the study of the Sub-Group are contained in its Report (W.10/14). After considering that report the Working Party found that:

With respect to the Federation:

 - (a) the adoption by the Federation of a consolidated tariff was both necessary for the economic success of the Federation and consistent with the objectives of the Agreement;
 - (b) that the general incidence of the new tariff of the Federation is not higher than and probably lower than that of the tariffs previously applied in the constituent territories;
 - (c) the consolidation of the tariffs of the three territories, containing a variety of preferential arrangements, as well as the reclassification of certain products and the modernization of nomenclature made

increases in certain margins of preference as compared with the margins existing in one or more of the constituent territories on the appropriate base date difficult if not impossible to avoid;

- (d) that there had been an average decrease in margins of preference and few cases in which the margin had to be increased above that which applied in all of the constituent territories on the relevant base dates.

With respect to the Union of South Africa:

- (a) that South Africa had, since early in the present century as well as on its base date, accorded duty-free entry to almost all products of the non-conventional area of Northern Rhodesia and had since the base date granted similar free entry to almost all products of Southern Rhodesia as permitted by the 18 May 1949 Decision of the CONTRACTING PARTIES with respect to the Customs Union between the Union of South Africa and Southern Rhodesia, and
- (b) that serious economic difficulty would have been caused for the Federation if certain of the preferences previously enjoyed by a substantial area of the Federation had not been extended to the whole Federation, and
- (c) that as against the cases in which a margin of preference had been extended or increased as compared with the preferences granted the constituent territories on the base date there were more eliminations or reductions in preferences.

With respect to Australia:

that the preferences in force in Australia in favour of Northern Rhodesia and Nyasaland had been reduced from some fifty-five tariff items on the base date to three and that the only preference previously granted to Southern Rhodesia had been extended without change to the Federation as a whole.

4. The Working Party then considered what action would be appropriate for the CONTRACTING PARTIES under the circumstances. Having come to the conclusion that there is no provision of the General Agreement that makes adequate allowance for all the special circumstances in which the adjustments have been made, the Working Party came to the conclusion that a decision under paragraph 5(a) of Article XXV was desirable and recommends that the CONTRACTING PARTIES adopt the following Decision:

Decision of the CONTRACTING PARTIES under Article XXV:5(a)
in connexion with the 1 July 1955 Tariff of the Federation of
Rhodesia and Nyasaland and the Trade Agreement between the
Federation and the Union of South Africa and the Federation and
Australia

RECALLING

(a) that on 29 October 1954 the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade declared that the Government of the Federation of Rhodesia and Nyasaland should thenceforth be deemed to be a contracting party and to have acquired the rights and obligations under the Agreement which formerly pertained to the Government of Southern Rhodesia and to the Government of the United Kingdom in respect of the territories of Northern Rhodesia and Nyasaland, and

(b) that on 17 November 1954 the CONTRACTING PARTIES authorized the Governments of the Federation of Rhodesia and Nyasaland and of the Union of South Africa to continue until the Tenth Session of the CONTRACTING PARTIES to avail themselves of the Declaration of 18 May 1949 relating to the customs union agreement between the Governments of Southern Rhodesia and the Union of South Africa, and

NOTING

(a) that the Government of the Federation adopted a new tariff effective on 1 July 1955, to replace the tariffs previously in force in the territories which now constitute the Federation, and

(b) that, in connexion with the adoption of this tariff the Federation and the Union of South Africa terminated the Customs Union Agreement between the Union of South Africa and Southern Rhodesia effective 1 July 1955 and concluded, effective on the same date, a new trade agreement to govern tariff and trade relations between the Federation and the Union of South Africa, and

(c) that, similarly on the same date the Governments of the Federation and of Australia concluded a new trade agreement to replace the Australia-Southern Rhodesia Trade Agreement of 1941 and certain provisions of the United Kingdom-Australia Trade Agreement of 1932;

HAVING EXAMINED

(a) the new Federal Tariff in terms of the principles of Article XXIV of the General Agreement and compared the general level of the rates with that of the rates formerly charged for goods entering the territories which constitute the Federation, and

(b) the preferences accorded by the Federation in comparison with the preferences in force in Southern Rhodesia and the non-conventional area of Northern Rhodesia on the base date applicable to those territories in the General Agreement, and

(c) the preferences accorded by the Union of South Africa and Australia respectively to the Federation under the new trade agreements in comparison with the preferences accorded by those countries to the constituent territories on the applicable base dates,

TAKING INTO ACCOUNT

(a) the Report of Working Party 5 of the Tenth Session, including the findings of the Working Party concerning the practical problems faced by the Federation in the consolidation of several tariffs with a variety of preferential rates and the difficulties which would have been created for the Federation if the preferences accorded by the Union of South Africa and Australia had been reduced to the lowest margin accorded on the relevant base date to any one of the constituent territories, and

(b) that the effect of the changes, looking at the three cases as a whole, appeared to be a decrease in preferences, and

(c) that there is no provision of the General Agreement that makes adequate allowance for all the special circumstances in which the adjustments have been made,

The CONTRACTING PARTIES

ACTING under the provision of Article XXV:5(a) of the General Agreement,

DECIDE

(a) that the provisions of Article I of the Agreement shall not prevent the application of the preferences established by the tariff of 1 July 1955, of the Federation of Rhodesia and Nyasaland as modified by the Agreements with South Africa and Australia or the preferences established by the Union of South Africa and by Australia in their trade agreements of 1 July 1955, with the Federation, and

(b) that the provisions of Article I of the Agreement shall not prevent:

(i) the Federation, prior to 1 July 1958, from completing the process of adjustment in its tariff,

(ii) the Federation during the initial life of either of the trade agreements concluded on 1 July 1955 from completing the process of adjustment in preferences affecting the partner country to the agreement,

- (iii) the Union of South Africa or Australia during the initial life of their respective agreements from completing the process of adjustment in preferences affecting their trade with the Federation,

so long as in each case the overall position in respect of preferences established on the applicable base dates provided for in paragraph 4 of Article I of the General Agreement is maintained, and so long as no margin of preference resulting from such future adjustments applied by or in favour of the Federation as a whole shall exceed the highest margin that was applied by or in favour of any of the constituent territories of the Federation on the relevant base date;

(c) the CONTRACTING PARTIES, in agreement with the Federation, the Union of South Africa and Australia, respectively, will take the necessary steps to amend the relevant base date applicable in each case so as to reflect the situation existing upon the completion of the adjustments referred to in sub-paragraph (b) above;

PROVIDED that the CONTRACTING PARTIES shall be notified not less than sixty days, or such shorter period as may be agreed between the contracting parties concerned, before any such future adjustment is made effective, and the contracting party proposing to make the adjustment shall consult with any contracting party which claims to be substantially affected by such adjustment with a view to reaching a mutually satisfactory solution of the matter, and further,

PROVIDED that any contracting party which considers itself adversely affected either by any increase or extension of a preference in the new tariff or the new trade agreements referred to above in comparison with the preferences maintained on the relevant base date or by an adjustment effected in accordance with sub-paragraph (b) of the operative part of this decision, may bring the matter before the CONTRACTING PARTIES under the provisions of Article XXIII. In considering any case under this provision the CONTRACTING PARTIES shall, consistently with the principle embodied in the first paragraph of Annex A of the General Agreement, compare the incidence of the adjusted margin of preference with the average incidence of the preferences that were applied by or in favour of the constituent territories for the product concerned on the relevant base dates and shall have due regard to any benefits that the contracting party initiating the case may have received from other changes in duties or preferences arising out of the adjustments referred to in this Decision.

5. The first proviso to the Decision requires that the CONTRACTING PARTIES be notified within not less than sixty days, or such shorter period as may be agreed between the contracting parties concerned, before any such future adjustment is made effective and to consult, upon request, with any interested contracting party.

6. The CONTRACTING PARTIES have been furnished in document SECRET 56 with a list of certain products which are currently the subject of negotiations between the Federation of Rhodesia and Nyasaland and the Union of South Africa. This list should be considered to be the notification referred to in the first proviso of the operative part of the Decision. The Working Party also recommends that, in view of the fact that negotiations concerning these products have been begun before the adoption by the CONTRACTING PARTIES of the proposed Decision, the CONTRACTING PARTIES now decide that in the case of the products concerned a period shorter than sixty days will be permitted on the understanding that the Federation and the Union of South Africa will consult with any substantially affected contracting party which so requests within fifteen days of the adoption of the Decision.