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Article 4

Developing Country Members

A developing country Member shall be free to deviate temporarily from the provisions of Article 2 to the extent and in such a manner as Article XVIII of GATT 1994, the Understanding on the Balance-of-Payments Provisions of GATT 1994, and the Declaration on Trade Measures Taken for Balance-of-Payments Purposes adopted on 28 November 1979 (BISD 26S/205-209) permit the Member to deviate from the provisions of Articles III and XI of GATT 1994.

1.2 General

1. In *Indonesia – Autos*, the Panel noted that "a violation of Article 2.1 of the TRIMs Agreement may be justified under Articles 3, 4 or 5 of the TRIMs Agreement".¹

2. In *Canada – Renewable Energy / Feed-In Tariff Program*, the Appellate Body referred to Article 4 in the context of finding that the procurement derogation in Article III:8(a) of the GATT 1994 is applicable to Article 2.2 of the TRIMs Agreement and the Illustrative List annexed thereto. The Appellate Body stated:

"[T]here is little, if any, indication that the provisions of the TRIMs Agreement were intended to override rights recognized in the GATT, such as the right provided in Article III:8(a). On the contrary, several provisions of the TRIMs Agreement – particularly the initial clause of Article 2.1, and Articles 3 and 4 – would seem to reflect reiterative attempts to safeguard rights recognized in the GATT, rather than to override them."²

Current as of: December 2020

¹ Panel Report, *Indonesia – Autos*, para. 14.92.

² Appellate Body Reports, *Canada – Renewable Energy / Feed-In Tariff Program*, para. 5.32.