

<b>1 ARTICLE 4 .....</b>	<b>1</b>
1.1 Text of Article 4.....	1
1.2 General.....	1

**1 ARTICLE 4**

**1.1 Text of Article 4**

**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".<sup>1</sup>

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."<sup>2</sup>

Current as of: December 2022

---

<sup>1</sup> Panel Report, *Indonesia – Autos*, para. 14.92.

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