

GENERAL AGREEMENT ON  
TARIFFS AND TRADE

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SOUTH AFRICA -- SOUTHERN RHODESIA CUSTOMS UNION

The new Customs Tariff of the Federation  
of Rhodesia and Nyasaland and the  
Trade Agreement with South Africa

The following communication, dated 16 July, has been received from the Government of the Federation of Rhodesia and Nyasaland:

"I have the honour to refer to the Decision taken by the CONTRACTING PARTIES on 17 November 1954, in terms of which the Governments of the Union of South Africa and of the Federation of Rhodesia and Nyasaland were authorized to continue to avail themselves of the Declaration of 18 May 1949, until the Tenth Session, and which provided, further, that the situation would be reviewed at the Tenth Session in the light of the specific proposals which the two Governments intended to submit by that time.

"This Decision, it will be recalled, stemmed from the joint statements by the two Governments, reproduced in documents L/152 of 1 October 1953, and L/259 of 26 October 1954, in which it was announced that, in the altered circumstances created by the establishment of the Federation of Rhodesia and Nyasaland, the Governments of the Union of South Africa and Southern Rhodesia had decided to continue to apply the Customs Union (Interim) Agreement until such time as the Union and Federal Governments had determined their future trade relations, and that, in view of the consultations towards this end which were proceeding between them, it was not possible for them to submit to the CONTRACTING PARTIES a definite plan and schedule for the completion of the Customs Union envisaged in the agreement between South Africa and Southern Rhodesia.

"In a further joint statement by the Union and Federal Governments reproduced in document L/345 dated 4 March 1955, it was announced that the Federal Government had given formal notice of its intention to terminate the Customs Union (Interim) Agreement between South Africa and Southern Rhodesia on 1 July 1955, and that formal negotiations between the two Governments had been opened for the purpose of determining the future trade relations between their respective countries.

"The negotiations referred to resulted in the conclusion of a Trade Agreement between South Africa and the Federation, which was signed at Salisbury on 28 June 1955, and came into operation on 1 July 1955.

"Three copies of the Trade Agreement are enclosed, together with three copies of a Notice of Motion in the Federal Assembly embodying the proposed Federal Tariff. (These rates became effective on 1 July 1955, but there may be certain changes in detail before it is ratified. The Tariff, in its final form, is therefore not yet available, but copies will be forwarded as soon as it has been accepted and printed.) Seventy two copies each of the Trade Agreement and the Notice of Motion for distribution to contracting parties, follow by surface mail.<sup>1</sup>

"The date of entry into force of the Trade Agreement necessarily had to coincide with the date of introduction of the new Federal Tariff; it was indicated to contracting parties (vide document L/293 of 1 December 1954) that this would be in mid-1955.

"Under the preferential customs agreements in force between the two Rhodesias and the Union on the base dates of 1 May 1941 (in the case of Southern Rhodesia) and 10 April 1947 (in the case of Northern Rhodesia), Union goods, with very few exceptions, entered Northern Rhodesia free of Customs duty, and were accorded very substantial preference by Southern Rhodesia.

"The preferences accorded by the Federation to the Union under the new Trade Agreement do not exceed those for which provision is made in Article I of GATT."

A communication dated 20 July has been received from the Government of the Union of South Africa. The first paragraphs are the same as the first four of the letter quoted above. The remainder of the letter reads:

"Copies of the Trade Agreement are being despatched to you by the Federal Government for distribution amongst contracting parties.

"It should be explained that the date of the entry into force of the Trade Agreement necessarily had to coincide with the date on which a uniform customs tariff for the Federation came into operation, that is, 1 July 1955. Moreover, this consideration, coupled with the fact that the negotiations between the two governments were finalised only late in June and that, furthermore, the Trade Agreement was based on the new Federal customs tariff which could not be disclosed before it actually came into operation, made it impossible for the two Governments to submit the Agreement to the CONTRACTING PARTIES in advance of its entry into force.

"The following additional information relating to the historical background of the trade relations between South Africa and the constituent territories of the Federation is furnished for the information of contracting parties.

"South Africa has traditionally had preferential trade and tariff agreements with Southern and Northern Rhodesia. For almost half a century

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<sup>1</sup> Copies will be distributed as early as possible.

the pattern of trade between them was developed largely on the basis of the preferential treatment which the Union and the two Rhodesias accorded each other under these agreements and which all contained the principle of a free interchange of domestic products, subject to certain relatively minor exceptions. Thus, for example, what was described at the time as a customs union, existed between South Africa and Southern Rhodesia from 1903 to 1935 when the customs union arrangement between the two countries was replaced by a preferential customs agreement. Although the principle of a free interchange of products between the two countries was retained under this preferential customs agreement, the number of exceptions to the principle was substantially increased in comparison with the position which prevailed under the earlier customs union arrangements between the two countries. The tariff preferences which South Africa and Southern Rhodesia accorded each other under the 1935-Agreement were in force at the time GATT came into operation, and provision for their subsequent maintenance was made in Annex A to the General Agreement. In 1949 the two countries concluded a Customs Union (Interim) Agreement which aimed at the re-establishment of a full customs union based on a duty-free interchange of domestic products and a common external tariff. The 1949-Agreement was examined at the Third GATT-Session, and its maintenance was approved by the CONTRACTING PARTIES subject to the provisions of the Declaration of 18 May 1949. This Agreement remained in force until 30 June 1955.

"From 1905 until 30 June 1955, there also existed, what was described as a customs union, between South Africa and Northern Rhodesia. The principle of a free interchange of domestic products between the two countries was embodied in all customs agreements concluded between them since 1905 and, in particular, was formally re-affirmed in the 1930-Agreement which, however, excluded from this principle a limited number of products (ale, beer, stout, cider and perry, wine, cigarettes and tobacco manufactures). The 1930-Agreement was in force at the time GATT came into operation, and provision for the maintenance of the preferential tariff treatment accorded by the two countries to each other under that Agreement was made in Annex A of the General Agreement. The 1930 Agreement was terminated on 30 June 1955.

"No preferential tariff arrangements have hitherto existed between South Africa and Nyasaland. Although the Trade Agreement between the Union of South Africa and the United Kingdom concluded at Ottawa on 20 August 1932, provided that, at the request of the United Kingdom, the Union would also accord to the British Colonies any of the preferences accorded to the United Kingdom or any of the preferences specifically included in the Agreement for the benefit of the Colonies, no request of this nature was made to the Union by the United Kingdom on behalf of Nyasaland. Moreover, since Nyasaland falls in the Congo Basin Treaty area, it is precluded from granting any preferences to the Union.

"During the consultations and negotiations between the South African and Federal Governments to which reference was made in document L/345 of

4 March 1955, it was found that the changed circumstances brought about by the establishment of the Federation and the introduction of a common tariff for the constituent territories of that country made it impracticable for the two Governments to pursue the objective of a customs union, based on a free interchange of domestic products, which had characterized the 1949 Agreement between South Africa and Southern Rhodesia as well as the 1930 Agreement between South Africa and Northern Rhodesia. In view, also, of the exceptional preferential tariff relationships which have traditionally existed between South Africa and the two Rhodesias, the two Governments came to the conclusion that the pattern of trade which had been developed under these special tariff relationships would be substantially disturbed, and that the very existence of a number of industries which had grown up in the Federation in recent years would be threatened with serious economic repercussions for both countries, unless South Africa and the Federation could continue to trade with each other on the basis of reasonable preferential tariff treatment for the domestic products of the two countries. The new conditions brought about by the introduction of a common tariff for the constituent territories of the Federation precluded the further maintenance of the tariff preferences between South Africa and the two Rhodesias for which provision was made in Annex A of GATT. The South African and Federal Governments, accordingly, decided on the conclusion of a trade agreement under which the two countries would accord each other certain specific preferences.

"Having regard to the fact that, under the preferential customs agreements in force between the Union and the two Rhodesias on the base date of 1 July 1938, Northern Rhodesian products, other than the few exceptions mentioned above, entered the Union entirely free of customs duty and very substantial preferences were accorded to goods of Southern Rhodesian origin, it is the considered opinion of the Government of the Union of South Africa that the preferences at present accorded by the Union to the Federation under the Trade Agreement between the two countries do not, on the whole, exceed the preferences in favour of Southern and Northern Rhodesia for the maintenance of which provision is made in Annex A of GATT, and that, moreover, the preferences accorded to the Federation as a whole are unlikely to result in any material diversion of Union imports from other contracting parties to that country."

