

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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ANTI-DUMPING AND COUNTERVAILING DUTIES

Submission of Laws and Regulations

The following statement has been received from the Government of the Federation of Rhodesia and Nyasaland:

"The following constitutes all legislation relating to anti-dumping and countervailing duties at present in force in the Federation. There are at present no statutory or quasi-statutory rules or regulations in force in this context.

"To date, no dumping duties have been imposed by the Federation, though a number of cases of the practices against which the following legislation is directed are at present under investigation. It is hoped that, as between the Federation and the Union of South Africa, the provisions of paragraph 3 of Article 8 of the Trade Agreement, quoted below, will make it possible to deal with cases of actual dumping in a manner which is more efficacious, but at the same time less disturbing to legitimate trade, than the somewhat clumsy method of dumping duties which would otherwise be the only remedy.

"The 'surcharge dumping duty' referred to in paragraph (f) of section 79 is a type of countervailing duty - the description was adopted purely for convenience of drafting. The type of practice against which it is directed, referred to in paragraph (f) of section 78, is one which is fairly widespread today, and which constitutes a very grave danger to developing industries, in countries such as the Federation, whose raw and manufactured materials requirements are largely imported.

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'Extracts from the Customs and Excise Act, 1955 (as amended):

Act 16/55

Definition for the purpose of dumping duties

72. For the purposes of sections seventy-eight and seventy-nine -

'export price' means the price free on board at which goods are sold by the exporter to the importer in the Federation;

'domestic value' means the domestic value as defined in section ninety-four, but in the application of sub-section (1) of section ninety-four to paragraph (a) of sub-section (1) of section seventy-eight and paragraph (a) of section seventy-nine for the words 'time of exportation to the Federation' there shall be substituted the words 'date of purchase thereof by the importer', except in the case of goods exported to the Federation on consignment or for which nominal prices are charged or for which no charge is made;

'actual cost' means the cost of the goods to the importer expressed in terms of the currency of the Federation, free on board at the port of shipment or place of despatch to the Federation and, in the case of goods exported to the Federation on consignment or for which nominal prices are charged or for which no charge is made, the price free on board at which similar goods are ordinarily sold for export, or if there is no such price, then the domestic value of such goods as provided for in section ninety-four.

Dumping duties

78. (1) If, after investigation and report by a board or person instructed to do so by the Minister, the Governor-General is satisfied, in respect of goods which are of a class or kind grown, produced, or manufactured in the Federation, that -

(a) such goods have been or are likely to be exported to the Federation at an export price which is less than the domestic value thereof as defined in section seventy-two;

(b) such goods have been, are being or are likely to be -

- (i) imported on consignment, as defined in subsection (4) of section ninety-three;
- (ii) imported for the account of a person resident in a country other than the Federation;
- (iii) imported by an agent from a principal resident in a country other than the Federation;
- (iv) imported by a person owning, controlling or having a financial interest in the business or firm supplying the goods;
- (v) exported to a business or firm in the Federation by a person owning, controlling or having a financial interest in such business or firm; or
- (vi) sold by a person in the Federation who has been, is being or is likely to be compensated in any manner for any loss incurred in selling the goods;

and have been, are being or are likely to be sold or offered for sale at a place in the Federation in the ordinary course of trade for an amount which is less than the domestic value thereof plus freight, insurance and all charges to that place, including landing, transportation, and delivery charges and any duty, other than a dumping duty, payable under this Act;

- (c) such goods have been or are likely to be exported to the Federation and a bounty has been or will be granted in respect of such goods in the country in which they were grown, produced, or manufactured or from which they were exported;
- (d) such goods have been or are likely to be conveyed to the Federation from a particular country or place of despatch at a rate of freight charges which is, at the time of shipment, less than the rate, certified by a board or person appointed by the Minister, as being the normal rate chargeable on that class or kind of goods or by reason of the granting of rebates, refunds, or other allowances the net amount of freight charges payable is less than the normal rate as certified above;
- (e) such goods have been or are likely to be imported into the Federation from a country the currency of which has been depreciated in relation to the currency of the Federation or the currency of the country of origin of such goods which have been or are likely to be imported into the Federation has been likewise depreciated; or

- (f) such goods have been or are likely to be exported to the Federation and the raw or manufactured materials from which such goods were wholly or partly manufactured are, in the country where such goods were manufactured, sold to producers or manufacturers in such country at a price which is lower than the price charged in such country for sales of such materials for export to the Federation;

and is further of the opinion that detriment from one or more of the causes set out in paragraphs (a) to (f) may result to an industry within the Federation and that it would be in the public interest to impose in respect of such goods a dumping duty, the Governor-General may by notice in the Federal Gazette notify the class or kind of goods and declare that one or more of the dumping duties enumerated in section seventy-nine and set forth in such notice shall be levied on goods of such class or kind which are imported into the Federation, and from the date of publication of such notice in the Federal Gazette such dumping duty or duties shall, in addition to any other duty payable thereon, be paid on such goods by the importer on their importation into the Federation or, in the case of goods liable to sales dumping duty, by any seller of such goods within the Federation:

Provided that the Governor-General may limit the amount of dumping duty mentioned in section seventy-nine, or if more than one of the duties so mentioned has been imposed, the total of such duties, to a percentage of the value for duty purposes of such goods, or alternatively, to a specified rate per unit of quantity, volume, or weight, which percentage or alternative specific rate shall be determined by him.

(2) The Governor-General may by notice in the Federal Gazette amend or repeal any dumping duty imposed in terms of subsection (1).

(3) Wherever the Governor-General is satisfied in terms of subsection (1) that it would be in the public interest to impose a freight dumping duty on any goods, he may for that purpose determine and notify in the Federal Gazette the minimum rate of freight charges which shall be applicable to that class or kind of goods when conveyed from any particular country or place to any place of discharge in the Federation or to any place in Africa at which goods are discharged for removal overland into the Federation:

Provided that the minimum rate of freight charges so determined shall in no case exceed the normal freight rate as certified in terms of paragraph (d) of subsection (1).

(4) The Governor-General may from time to time amend any determination made by him in terms of subsection (3).

(5) Whenever a notice is published in terms of subsection (1), the Minister shall, within fourteen days after the publication of such notice in the Federal Gazette, if Parliament is then in session, or, if Parliament is not then in session, within fourteen days of the commencement of its next session, lay before Parliament -

- (a) a copy of the notice; and
- (b) a statement setting out the reasons for the publication of such notice.

(6) If Parliament does not by resolution confirm any notice before the adjournment of the session during which such notice was laid before it in terms of subsection (5), such notice shall with effect from the date of such adjournment cease to be of any force. Thereupon the Governor-General shall, with effect from such date, revoke such notice.

Kinds of dumping duty

79. The kinds of dumping duties which may be imposed in terms of section seventy-eight shall be the following -

- (a) ordinary dumping duty, which shall be the amount by which the domestic value, as defined in section seventy-two, exceeds the export price as defined in that section if such amount is greater than five per centum of the export price:

Provided that if there is no export price, the amount of the dumping duty shall, subject to any action taken by the Governor-General in terms of the proviso to subsection (1) of section seventy-eight, be an amount equal to the domestic value of the goods as defined in section ninety-four;

- (b) sales dumping duty, which shall be the amount by which the domestic value of the goods, as defined in section seventy-two, plus the expenses and charges set forth in paragraph (b) of subsection (1) of section seventy-eight, exceeds the selling price in the Federation;
- (c) bounty dumping duty, which shall be the amount of the bounty referred to in paragraph (c) of subsection (1) of section seventy-eight, whether such bounty is by way of a bonus, rebate, subsidy, or otherwise and whether it is granted by a government or other authority or person;

- (d) Freight dumping duty, which shall be the amount by which either the normal freight on the goods in question as determined by the board or person appointed in terms of paragraph (d) of subsection (1) of section seventy-eight or, if a minimum rate of freight has been notified by the Governor-General in terms of subsection (3) of section seventy-eight, the minimum freight so determined exceeds the freight actually paid;
- (e) exchange dumping duty, which shall be the amount by which the actual cost of the goods as defined in section seventy-two is less than such cost expressed in the currency of the country of origin or export of the goods and converted into the currency of the Federation at a rate which the Governor-General is hereby authorized to determine and notify in the Federal Gazette;
- (f) surcharge dumping duty, which shall be determined by a rate in terms of money per unit of quantity of goods notified by notice in the Federal Gazette which, in the opinion of the Governor-General, is equal to the difference between the amount charged to a manufacturer in the country in respect of which such rate is notified and the amount charged in that country for export to the Federation of the quantity of such raw or manufactured material as is contained in such unit of quantity of such goods.

Goods on consignment

93. (4) For the purpose of this section, goods shall be deemed to be supplied on consignment when a supplier outside the Federation consigns to a person within the Federation goods for sale on commission, such goods remaining the property of, or being held in the interest of, such supplier until sold or disposed of by the person within the Federation.

Definition of domestic value

94. (1) For the purposes of this Act and subject to the provisions of section seventy-two, 'domestic value', in respect of goods imported into the Federation, shall be the market price at which, at the time of exportation, such or similar goods are freely offered for sale for consumption in the country from which the goods are exported, to all purchasers in the usual wholesale quantities in the ordinary course of trade in the principal markets of such country, including the cost of packages ordinarily used in those markets, plus the extra cost of packages and packing for export, carriage to the port of shipment, and all other expenses, other than such abnormal costs as are described in proviso (i) of subsection (2) of section ninety-three, incidental to placing the goods on board ship ready for export to the Federation, but shall not include any drawback of duty allowed or other taxation remitted by the government of that country on the exportation of the goods therefrom:

Provided that if such goods are imported into the Federation out of a customs or bonded warehouse situated within the districts of Beira or Lourenco Marques in Portuguese East Africa and such goods were at the time of importation into and warehousing in such districts the property of a person domiciled in the Federation, the country from which the goods were exported to such districts, shall, for the purposes of this section, be deemed to be the country from which they were exported to the Federation.

(2) When the goods are sold in the country from which they are exported to the Federation under such conditions that no domestic value as defined in subsection (1) can be calculated or when goods exported to the Federation are not sold for consumption in the country from which they are so exported, or are sold therein or under any manner or condition considered by the Controller to be unusual or peculiar in the marketing of such goods, the Controller may determine a value, and the value so determined shall be deemed to be the domestic value of such goods.

Suspension and rebate of certain duties

102. (1) The Governor-General may under such conditions, restrictions, and regulations as he may prescribe by notice in the Federal Gazette -

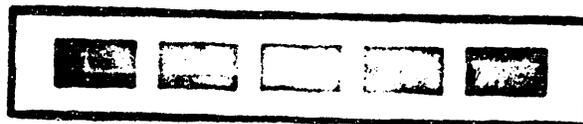
(a) grant a rebate of the whole or part of the duty on raw, semi-manufactured or manufactured material or requisite of any industry used in the manufacture or refining of any article within the Federation.

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"Act 24/55 Appendix I (Customs Tariff)

ex Item 43. Sugar and sugar substitutes:

Note: In the case of sugar on which bounties are granted in the country of origin an additional duty equal to such bounty is to be levied.



- III -

"Extracts from the Trade Agreement between the Federation and the Union of South Africa:

Article 8

(1) A party to this Agreement may impose dumping duties on goods, grown, produced or manufactured in the territory of the other party and imported into the territory of the first-mentioned party.

(2) A party to this Agreement may impose countervailing duties to offset any subsidies granted, directly or indirectly, by the other party or by other bodies or individuals, in respect of any goods exported to the territory of the first-mentioned party from the territory of the other party.

(3) The parties undertake, on request by one of the parties, to afford the other party all possible assistance in the investigation of any allegation of dumping in respect of goods exported from the territory of one party to that of the other party."

