

ZIMBABWE - PARAGRAPH 4 OF ARTICLE I OF GATT 1994

Decision of 14 October 1996¹

Taking note of the request² from the Government of the Republic of Zimbabwe for a renewal of the waiver from its obligations under paragraph 4 of Article I of the General Agreement on Tariffs and Trade (hereinafter referred to as "GATT") 1994, with respect to dates applicable to Members for purposes of paragraph 4 and Annex G to GATT 1994, which waiver was originally granted by the CONTRACTING PARTIES to GATT 1947 (hereinafter referred to as the CONTRACTING PARTIES) on 19 November 1960³;

Considering that the footnote to Annex 1A, Section on GATT 1994, subparagraph 1(b)(iii) of the Agreement Establishing the World Trade Organization (hereinafter referred to as "the WTO Agreement") requires the Ministerial Conference to establish at its first session a revised list of waivers granted under Article XXV of GATT 1947 and still in force on the date of entry into force of the WTO Agreement;

Bearing in mind that by a Decision of 31 January 1995⁴ the General Council established a list of waivers existing at the entry into force of the WTO Agreement, which included the waiver granted to South Africa, Malawi and Zimbabwe on 19 November 1960;

Taking into account that paragraph 2 of the Understanding in Respect of Waivers of Obligations under GATT 1994 provides that any waiver in effect on the date of the entry into force of the WTO Agreement shall terminate, unless extended in accordance with the procedures set out in paragraph 1 of the aforementioned understanding and those of Article IX of the WTO Agreement, on the date of its expiry or two years from the date of entry into force of the WTO Agreement, whichever is earlier;

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¹Adopted in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed by the General Council (WT/L/93).

²G/L/106.

³BISD 9S/46.

⁴WT/L/3/Corr. 1.

Considering that by a Decision of 3 December 1955⁵ and subsequent related actions, the CONTRACTING PARTIES accepted the increase in margins of preference resulting from the application of the 1955 tariff of Malawi and Zimbabwe and their 1955 Agreements with South Africa as not increasing the overall level of preferences accorded by the three countries involved, and made provision that, following the completion of the adjustments permitted by the 1955 Decision, the CONTRACTING PARTIES would establish new dates for the purposes of paragraph 4 of Article I of GATT 1994 for Malawi and Zimbabwe, and for South Africa in respect of products of Malawi and Zimbabwe;

Bearing in mind that a number of adjustments in margins of preference have been made under the 1955 Decision, and that the periods thereunder for making any further adjustments under the terms of that decision have expired;

Having regard to the Guiding Principles to be followed in considering applications for waivers adopted on 1 November 1956, the Understanding in Respect of Waivers of Obligations under GATT 1994, and paragraphs 3 and 4 of Article IX of the WTO Agreement;

Members, acting pursuant to the provisions of paragraph 3 of Article IX of the WTO Agreement,

Decide that

1. Subject to the terms and conditions set out hereunder, the provisions of paragraph 4 of Article I of GATT 1994 shall be modified with respect to the Government of Zimbabwe until 31 December 1997, to the extent necessary to permit the Government of Zimbabwe to make the following changes in the dates applicable to it for the purposes of paragraph 4 of Article I and Annex G to GATT 1994:

3 December 1955, provided that the tariff adjustments made by Zimbabwe on 8 March 1957 and tariff adjustments made at any time by it pursuant to the decision of 3 December 1955 shall be deemed for this purpose, to have been in effect on that date,

provided it satisfies the General Council by means of such consultations as may be held pursuant to this Decision, that their actions in the exercise of this waiver are consistent with the intent of GATT 1994.

2. The Government of Zimbabwe shall, upon request, promptly enter into consultations with any interested Member with respect to any difficulty or matter that may arise as a result of the waiver; where a Member considers that any benefit accruing to it under GATT 1994 may be or is being impaired unduly as a result of the waiver, such consultation shall examine the possibility of action for a satisfactory resolution of the problem or matter. This Decision does not affect Members' rights as set forth in the Understanding in respect of Waivers of Obligations under GATT 1994.

⁵BISD 4S/17.