

ARTICLE XXXII

CONTRACTING PARTIES

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I. TEXT OF ARTICLE XXXII

Article XXXII

Contracting Parties

1. The contracting parties to this Agreement shall be understood to mean those governments which are applying the provisions of this Agreement under Articles XXVI or XXXIII or pursuant to the Protocol of Provisional Application.

2. At any time after the entry into force of this Agreement pursuant to paragraph 6 of Article XXVI, those contracting parties which have accepted this Agreement pursuant to paragraph 4 of Article XXVI may decide that any contracting party which has not so accepted it shall cease to be a contracting party.

II. INTERPRETATION AND APPLICATION OF ARTICLE XXXII

1. Paragraph 1

(1) “governments”

The contracting parties were defined as “governments” and not as “states” or “nations” so that governments with less than complete sovereignty could be contracting parties to GATT.¹ A number of such governments have been contracting parties, including Southern Rhodesia when it was under United Kingdom sovereignty, Hong Kong and Macau.

(2) Status as a contracting party

The government of Southern Rhodesia, upon certification by the United Kingdom of its autonomy in commercial matters, participated in the negotiation of the General Agreement during the Second Session of the Preparatory Committee for the Havana Conference, was a signatory of the Final Act of the Second Session, and accepted the Protocol of Provisional Application under paragraph 3 thereof, thereby acquiring the status of a contracting party.² On 12 November 1965, the United Kingdom delegation gave notice that “Her Majesty’s Government in the United Kingdom consider the Southern Rhodesian Government’s purported declaration of

¹EPCT/198; EPCT/TAC/PV.22, pp. 21-22. Concerning acceptance of the General Agreement by “governments” see also EPCT/TAC/PV.12, EPCT/TAC/PV.13, EPCT/TAC/SR.12, EPCT/TAC/SR.13.

²See EPCT/198, report of Sub-committee on participation as full contracting parties of Burma, Ceylon and Southern Rhodesia, and attached Declaration and statement of sponsorship of Burma, Ceylon and Southern Rhodesia by UK Government.

independence to be an act of rebellion against the authority of Her Majesty's Government and against the Constitution as by law established. It is an illegal act and ineffective in law. Her Majesty the Queen, in the exercise of the authority conferred on Her by Sections 42 and 43 of the Southern Rhodesian Constitution, has accordingly dismissed the Prime Minister and Ministers of the Southern Rhodesian Government from their offices".³ However, no determination was made that Southern Rhodesia had ceased to be a contracting party in its own right nor that this status should be suspended. The Government of Zimbabwe, which became independent on 18 April 1980, did not subsequently become a contracting party through Article XXVI:5(c) nor through Article XXXIII, but succeeded to the contracting party status of Southern Rhodesia.⁴

The Government of the United Kingdom, which was internationally responsible for the territory of Palestine under a League of Nations mandate, negotiated in 1947 on behalf of the mandated territory of Palestine for concessions, and accepted the Protocol of Protocol Application under paragraph 2 thereof on behalf of the Mandated Territory of Palestine on 20 March 1948. On 15 May 1948 the League of Nations mandate was terminated. On 9 May 1949 the CONTRACTING PARTIES adopted a Declaration providing, *inter alia*, that "Whereas the Government of the United Kingdom ceased to be responsible for the mandated territory of Palestine on 15 May, 1948" and that "the United Kingdom ceased, as from 15 May 1948, to be a contracting party in respect of the territory formerly included in the Palestine mandate ...".⁵ See also the material under Articles XXVI and XXVII on international responsibility, and changes in international responsibility, for territories in respect of which a contracting party has accepted the General Agreement or has agreed to apply provisionally the General Agreement under the Protocol of Provisional Application or a protocol of accession.

At its meeting on 19 June 1992, the Council decided that the representative of the Federal Republic of Yugoslavia should refrain from participating in the business of the Council.⁶ At its meeting on 16-17 June 1993, the Council agreed in the light of United Nations General Assembly Resolution 47/1 to modify this decision as follows: "The Council considers that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the contracting party status of the former Socialist Federal Republic of Yugoslavia in the GATT, and therefore decides that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for accession to the GATT and that it shall not participate in the work of the Council and its subsidiary bodies. The Council further invites other committees and subsidiary bodies of the GATT, including the Committees of the Tokyo Round Agreements and the Committee on Trade and Development, to take the necessary decisions in accordance with the above".⁷

The Czechoslovak Republic ceased to exist on December 31, 1992, and ceased to be a contracting party. It was replaced by the Czech Republic and the Slovak Republic as of 1 January 1993, which each acceded to GATT effective 15 April 1993 under Protocols of Accession which provided for entry into force of their rights and obligations as of 1 January 1993.⁸

2. Paragraph 2

The Ancey Protocol, Torquay Protocol, and subsequent Protocols of Accession state that, for the purposes of Article XXXII:2, accession to the General Agreement pursuant to the respective Protocol shall be regarded as acceptance of the Agreement pursuant to paragraph 4 of Article XXVI ("paragraph 3" in Protocols drawn up before 7 October 1957 when the present text of Article XXVI came into force).⁹ Protocols of Accession also state that the government concerned "shall, upon entry into force of this Protocol ... become a contracting party to the General Agreement, as defined in Article XXXII thereof ...".¹⁰

³L/2511.

⁴In July 1981 the Council decided to cancel arrears in contributions due by Southern Rhodesia from 1965-1980 on condition that Zimbabwe remit contributions due as from the date of its independence; see L/5170, C/M/150.

⁵II/14; see also draft declaration at CP.3/17, discussion and adoption at CP.3/SR.II p. 1-5.

⁶C/M/257 and Corr.1.

⁷C/M/264, p. 3.

⁸See Decision of 3 December 1992 on "Czech Republic and Slovak Republic - Participation in GATT - Interim Application of the General Agreement", L/7155, 39S/6; Decision of 3 December on "Czech Republic and Slovak Republic - Protocols of Accession", L/7156, 39S/6; Protocols of Accession of Czech Republic and Slovak Republic, L/ 7181 and L/7182.

⁹E.g. Ancey Protocol, para. 8, I/79.

¹⁰See, e.g., Protocols for the Accession of Bolivia and Costa Rica, 37S/5, 7.

III. PREPARATORY WORK AND SUBSEQUENT MODIFICATIONS

There is no equivalent Article in the Havana Charter. Article XXXII was drafted at the Geneva session of the Preparatory Committee as part of the final provisions for the General Agreement. The words “or XXXIII” were added in 1948 by the Protocol Modifying Certain Provisions of the General Agreement, consequent to the revision of Article XXXIII in that Protocol.

IV. RELEVANT DOCUMENTS

Geneva

Discussion: EPCT/TAC/SR.16
EPCT/TAC/PV/25
Reports: EPCT/135, 214/Add.1/Rev.1