

SECOND AND THIRD COMMITTEES

JOINT SUB-COMMITTEE ON TARIFF PREFERENCES

Draft Revision of Article 42

Article 42

Territorial Application of Chapter IV

1. The rights and obligations arising under this chapter shall be deemed to be in force between each and every customs territory in respect of which this Charter has been accepted by a Member in accordance with Article 99.
2. For the purposes of this Charter [Chapter] a customs territory shall be understood to mean any territory with respect to which separate tariffs or other regulations of commerce are maintained for substantially all the trade of such territory with other territories.

Article 42A

Frontier Traffic

The provisions of this chapter shall not be construed to prevent advantages accorded by any Member to adjacent countries in order to facilitate frontier traffic.

Article 42B

Customs Unions - Free Trade Areas

1. Members recognize that the purpose of a customs union or of a free trade area should be to facilitate trade between the parties to it and not to raise obstacles to the trade of other Members with such parties.
2. The provisions of this chapter shall not therefore be construed to prevent the formation of a customs union or the establishment of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or a free-trade area. PROVIDED that:

- (1) with respect to a customs union, or an interim agreement leading to the establishment of a customs union; the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with Members of the Organization shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the

/constituent

- constituent territories prior to the formation of such union, or the adoption of such interim agreement, as the case may be;
- (ii) with respect to a free-trade area, or an interim agreement leading to the establishment of a free-trade area, the duties and other regulations of commerce maintained in each of the constituent territories and applicable at the establishment of such free trade area, or the adoption of such interim agreement, to the trade of Members not participating in the arrangement shall not be higher or more restrictive than the corresponding tariffs and other regulations of commerce existing in the same constituent territory prior to the establishment of the free trade area, or interim agreement, as the case may be;
- (iii) PROVIDED further that any interim agreement referred to in sub-paragraphs (i) and (ii) above shall include a definite plan and schedule for the attainment of such a customs union or the establishment of such a free trade area within a reasonable length of time.
3. (a) Any Member deciding to enter into a customs union or a free-trade area, or an interim agreement leading to the formation of such a union or free-trade area, shall promptly notify the Organization and shall make available to it such information regarding the proposed union or free-trade area as will enable the Organization to make such reports and recommendations to Members as it may deem appropriate.
- (b) If, after having studied the plans and schedules provided for in an interim agreement under paragraph 2, in consultation with the parties to that agreement and giving due account to the information made available in accordance with the terms of sub-paragraph (a), the Organization finds that such agreement is not likely to result in a customs union or in the establishment of a free-trade area within the period contemplated by the parties to the agreement or that such period is not a reasonable one, the Organization shall make recommendations to the parties to the agreement. If the parties are not prepared to modify the agreement in accordance with such recommendations, they shall not maintain it in force or institute such agreement if it has not yet been concluded.
- (c) Any substantial change in the plan or schedule shall be notified to the Organization which may request the Members concerned to consult with it if the change seems likely to jeopardize or delay unduly the achievement of the customs union or the free-trade area.

/4. For the purposes

4. For the purposes of this Charter:
- (a) A customs union shall be understood to mean the substitution of a single customs territory for two or more customs territories, so that
 - (i) tariffs and other restrictive regulations of commerce (except, where necessary, those permitted under Section B of Chapter IV and under Article 43) are eliminated on substantially all the trade between the constituent territories of the union [in products originating in such territories] and
 - (ii) substantially the same tariffs and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union;
 - (b) A free-trade area shall be understood to mean a group of two or more customs territories [of Members] in which the tariffs and other restrictive regulations of commerce (except, where necessary, those permitted under Section B of Chapter IV and under Article 43) between such territories are eliminated on substantially all the trade in products originating in constituent territories of the free-trade area.
5. Subject to the provisions of sub-paragraphs (a) (i) and (b) of paragraph 4, the preferences referred to in paragraph 2 of Article 16 shall not be affected by the constitution of a customs union or a free-trade area, but may be eliminated or adjusted by means of negotiations with Members affected.
