

CENTRAL DRAFTING COMMITTEE

PROPOSED REDRAFT OF THE FINAL TEXT OF CHAPTER III - ARTICLE 15

CHAPTER III: ECONOMIC DEVELOPMENT AND RECONSTRUCTION

Article 15

Preferential Arrangements for Economic Development and Reconstruction

1. The Members recognize that special circumstances, including the need for economic development or reconstruction, may justify new preferential agreements between two or more countries in the interest of the programmes of economic development or reconstruction of one or more of them.
2. Any Member [or Members] contemplating the conclusion of such an agreement shall communicate [their] its intention to the Organization and provide it with the relevant information to enable it to [consider] examine the [contemplated] proposed agreement. The Organization shall promptly communicate such information to all Members.
3. The Organization shall examine the proposal and, by a two-thirds majority of the Members present and voting, may grant, subject to such conditions as it may impose, [, may, by a two-thirds majority of the Members present and voting, grant] an exception to the provisions of Article 16 to permit the proposed [arrangements] agreement to [be made] become effective.
4. Notwithstanding the provisions of paragraph 3, the Organization shall [permit] authorize, in accordance with the provisions of paragraphs 5 and 6, the necessary departure from the provisions of Article 16 [in accordance with the provisions of paragraphs 5 and 6] in respect of a proposed agreement between Members for the establishment of tariff preferences which it determines to fulfil the following conditions and requirements:
 - (a) the territories of the parties to the agreement [shall be] are contiguous one with another, or all parties [shall] belong to the same economic region;
 - (b) any [tariff] preference provided for in the agreement is necessary to ensure a sound and adequate market for a [branch of] particular industry or branch of agriculture which is being, or

/is to be,

- is to be, created or reconstructed or substantially developed or substantially modernized;
- (c) the parties to the agreement undertake to grant free entry for the product or products of the branch of industry or branch of agriculture referred to in sub-paragraph (b) or to apply to such products customs duties to such products sufficiently low to ensure that the objectives provided for set forth in that sub-paragraph (b) shall will be achieved;
- (d) any compensation granted to the other parties by the party receiving preferential treatment shall, if it is a preferential concession, conform with the provisions of this paragraph;
- (e) the agreement contains provisions permitting, on terms and conditions to be determined by negotiation with the parties to the agreement, the adherence of other Members, which are able to qualify as parties to the agreement under the provisions of this paragraph, in the interest of their programmes of economic development or reconstruction. On terms and conditions to be determined by negotiation with the parties to the agreement, The provisions of Chapter VIII may be invoked by such a Member in this respect only on the ground that it has been unjustifiably excluded from participation in such an agreement;
- (f) the agreement contains provisions for its termination according to its purposes and within a period necessary for the fulfilment of such its purposes but, in any case, not more later than at the end of ten years; provided that any renewal shall be subject to the approval of the Organization and no renewal shall not be for periods greater a longer period than five years each.
5. When the Organization, upon the application of a Member and in accordance with the provisions of paragraph 6, approves a margin of preference in accordance with paragraph 6, as an exception to Article 16 in respect of the products covered by the proposed agreement, it may, as a condition of its approval, require a reduction in an unbound most-favoured-nation rate of duty proposed by the Member in respect of any product so covered, if in the light of the representations of any affected Member it considers that rate excessive.
6. (a) If the Organization finds that the contemplated proposed agreement fulfils the conditions and requirements set forth in paragraph 4 and that the conclusion of the agreement is not likely to cause substantial injury to the external trade of a Member country not party to the agreement,
- /it shall

it shall within two months authorize the parties to the agreement / to depart from the provisions of Article 16, as regards the products covered by the agreement. If the Organization does not give a ruling within the specified period, /the its authorization /of the Organization shall be /considered automatically received regarded as having been automatically granted.

(b) If the Organization finds that the proposed agreement, while fulfilling the conditions and requirements set forth in paragraph 4, is likely to cause substantial injury to the external trade of a Member country not party to the agreement, /the Organization it shall inform interested Members of its findings and shall require the Members contemplating the conclusion of the agreement to enter into negotiations with that Member. When agreement is reached in the negotiations, the Organization shall authorize the Members contemplating the conclusion of the preferential agreement to depart from the provisions of Article 16 as regards the products covered by the preferential agreement. If, /within at the end of two months from the date on which the Organization suggested such negotiations, the negotiations have /failed not been completed and the Organization considers that the injured Member is unreasonably preventing the conclusion of the negotiations, it shall /permit authorize the necessary departure from the provisions of Article 16 /by fixing and at the same time shall fix a fair compensation to be granted by the parties to the agreement to the injured Member or, if this is not possible or reasonable, /by ordering prescribed such modification of the agreement as will give such Member fair treatment. the provisions of Chapter VIII may be invoked by such Member only if it does not accept the decision of the Organization regarding such compensation.

(c) If the Organization finds that the proposed agreement, while fulfilling the conditions and requirements set forth in paragraph 4, is likely to jeopardize /seriously the economic position of a Member in world trade, it shall not /agree to authorize any departure from the provisions of Article 16 unless the parties to the agreement have reached a mutually satisfactory understanding with that Member.

(d) If the Organization finds that the prospective parties to a regional preferential agreement have, /before 21 prior to November 21, 1947, obtained from countries representing at least two-thirds of their import trade /, the right to depart from most-favoured-nation treatment in the cases envisaged in the agreement, the Organization shall, without prejudice to the conditions governing /such the recognition of such right, grant the authorization provided for in paragraph 5 and in sub-paragraph (a) of this paragraph, /provided

provided that the conditions and requirements set out in sub-paragraphs (a); (e) and (f) of paragraph 4 are fulfilled. Nevertheless, if the Organization finds that the external trade of one or more Member /s/ countries, which have not recognized this right to depart from most-favoured-nation treatment, is threatened with substantial injury, it shall invite the parties to the agreement to enter into negotiations with the injured Member, and the provisions of sub-paragraph (b) /above/ of this paragraph shall apply.

Interpretative Notes

Ad Article 15

Paragraph 1

/It is understood that/ The special circumstances /mentioned/ referred to in paragraph 1 are those /referred to/ set forth in Article 15. /itself./

Paragraph 4 (a)

The Organization need not interpret the term "economic region" to require close geographical proximity if it is satisfied that a sufficient degree of economic integration exists between the countries concerned.

Paragraph 6 (d)

It is understood that the words "the prospective parties to a regional preferential agreement have, /before 21/ prior to November 21, 1947, obtained from countries representing at least two-thirds of their import trade /,/ the right to depart from most-favoured-nation treatment /for the purpose of establishing regional preferences as/ in the cases envisaged in the agreement" cover rights to conclude preferential agreements which may have been recognized in respect of mandated territories which became independent /before 21/ prior to November 21, 1947, in so far as these rights have not been specifically denounced before that date.
