

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.12/13

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CONTRACTING PARTIES
Twelfth Session

APPLICATION OF THE PROVISIONS OF ARTICLE XXVI:5(c)

Report by the Working Group

The Working Group has examined the suggestion made by the Executive Secretary in L/618 concerning the application of the provisions of Article XXVI:5(c) (then 4(c)) in the light of the discussion which took place at the plenary meeting of 19 October. It considers that most of the practical difficulties which the contracting parties and the secretariat have experienced in this connexion would be resolved if the CONTRACTING PARTIES were to accept the following procedural arrangement in the form of a recommendation.

RECOMMENDATION CONCERNING THE APPLICATION OF THE PROVISIONS OF ARTICLE XXVI:5(c)

The CONTRACTING PARTIES recommend that:

- (a) As soon as a customs territory in respect of which a contracting party has accepted the Agreement, or has made effective the provisional application of the Agreement, acquires full autonomy in the conduct of its external commercial relations and of the other matters provided for in the Agreement, the responsible contracting party should notify the Executive Secretary of that fact;
- (b) At their next ordinary session, the CONTRACTING PARTIES, after consultation with the representatives of the responsible contracting party and of the territory in question, should set a reasonable period during which the contracting parties should continue de facto to apply the Agreement in their relations with that territory, provided that that territory also continues de facto to apply the Agreement to them; and
- (c) At the same session, the CONTRACTING PARTIES, without prejudice to the rights conferred by Article XXVI:5(c), should make it clear that, if the sponsorship provided for in that sub-paragraph has not taken place with respect to the territory in question before the end of the period mentioned in (b) above, the contracting parties would not be expected to continue de facto to apply the Agreement in their relations with that territory.

On the other hand, the Working Party considered the procedural suggestion which was put forward by the Swedish representative at the plenary meeting and recommends that the CONTRACTING PARTIES agree that, if the sponsorship provided for in Article XXVI:5(c) were to take place at a time when the CONTRACTING PARTIES are not in session, the CONTRACTING PARTIES, at their next ordinary session, should record the legal effects of such sponsorship in an appropriate declaration.