

CHAPTER V
CUSTOMS UNION AND LIBERALISATION OF TRADE

Article 29

Customs Union

Member States of each regional economic community agree to progressively establish among them during a transitional period specified in Article 6 of this Treaty, a Customs Union involving:

- (a) The elimination, among Members States of each regional economic community, of customs duties, quota restrictions, other restrictions or prohibitions and administrative trade barriers, as well as all other non-tariff barriers; and**
- (b) The adoption by Member States of a common external customs tariff.**

Article 30

Elimination of Customs Duties Among Member States of Regional Economic Communities

- 1. During the second stage, Member States of each regional economic community shall refrain from establishing among themselves any new customs duties and from increasing those that apply in their mutual trade relations.**
- 2. During the third stage, Member States shall progressively reduce and eliminate finally among themselves, at the level of each regional economic community, customs duties in accordance with such programme and modalities as shall be determined by each regional economic community.**
- 3. During each stage, the Assembly, on the recommendation of the Council, shall take the necessary measures with a view to co-ordinating and harmonising the activities of the regional economic communities relating to the elimination of customs duties among Member States.**

Article 31

Elimination of Non-Tariff Barriers to Intra-Community Trade

- 1. At the level of each regional economic community and subject to the provisions of the Treaty, each Member State shall, upon the entry into force of this Treaty, progressively relax and ultimately remove quota restrictions, and all other non-tariff barriers and prohibitions which apply to exports to that State, of goods originating in the other Member States, at the latest, by the end of the third stage and in accordance with paragraph (2) of this Article. Except as otherwise provided or permitted by this Treaty, each Member State shall thereafter refrain from imposing any further restrictions or prohibitions on such goods.**
- 2. Subject to the provisions of this Treaty, each regional economic community shall adopt a programme for the progressive relaxation and ultimate elimination, at the latest by the end of the third stage, of all quota restrictions and prohibitions and all other non-tariff barriers that apply in a Member State, to imports originating in the other Member States; it being understood that each regional economic community may subsequently decide that all quota restrictions, other restrictions and prohibitions be relaxed or removed within a shorter period than that prescribed in this paragraph.**
- 3. The arrangements governing restrictions, prohibitions, quota restrictions, dumping subsidies and discriminatory practices shall be the subject of a Protocol concerning Non-Tariff Trade Barriers.**

Article 32

Establishment of a Common External Customs Tariff

- 1. During the third stage, Member States shall, at the level of each regional economic community, agree to the gradual establishment of a common external customs tariff applicable to goods originating from third States and imported into Member States.**
- 2. During the fourth stage, regional economic communities shall, in accordance with a programme drawn up by them, eliminate differences between their respective external customs tariffs.**
- 3. During the fourth stage the Council shall propose to the Assembly the adoption, at Community level, of a common customs and statistical nomenclature for all Member States.**

Article 33

System of Intra-Community Trade

- 1. At the end of the third stage, no Member State shall, at the level of each**

regional economic community, levy customs duties on goods originating in one Member State and imported into another Member State. The same prohibition shall apply to goods originating from third States which are in free circulation in Member States and are imported from one Member State into another.

2. The definition of the notion of products originating in Member States and the rules governing goods originating in a third States and which are in free circulation in Member States shall be governed by a Protocol concerning the Rules of Origin.
3. Goods originating from third States shall be considered to be in free circulation in a Member State if (i) the import formalities relating thereto have been complied with, (ii) customs duties have been paid thereon in that Member State, and (iii) they have not benefited from a partial or total exemption from such customs duties.
4. Member States undertake not to adopt legislation implying direct or indirect discrimination against identical or similar products originating from another Member State.

Article 34

Internal Taxes

1. During the third stage, Member States shall not levy, directly or indirectly on goods originating from Member State and imported into any Member State, internal taxes in excess of those levied on similar domestic products.
2. Member States, at the level of each regional economic community, shall progressively eliminate any internal taxes levied for the protection of domestic products. Whereby virtue of obligations assumed under a prior agreement signed by a Member State, that Member State is unable to comply with this Article, it shall notify the Council of this fact and shall not extend or renew such agreement when it expires.

Article 35

Exceptions and Safeguard Clauses

1. Notwithstanding the provisions of Articles 30 and 31 of this Treaty, any Member State, having made its intention known to the Secretariat of the Community which shall inform Member States thereof, may impose or continue to impose restrictions or prohibitions affecting:

- (a) The application of security laws and regulations;
 - (b) The control of arms, ammunitions and other military items and equipment;
 - (c) The protection of human, animal or plant health or life, or the protection of public morality;
 - (d) Export of strategic minerals and precious stones;
 - (e) The protection of national treasures of artistic or archaeological value or the protection of industrial, commercial and intellectual property;
 - (f) The control of hazardous wastes, nuclear materials, radio-active products or any other material used in the development or exploitation of nuclear energy;
 - (g) Protection of infant industries;
 - (h) The control of strategic product; and
 - (i) Goods imported from a third country to which a Member State applies total prohibition relating to country of origin.
- 2. The prohibitions or restrictions referred to in paragraph 1 of this Article shall in no case be used as a means of arbitrary discrimination or a disguised restriction on trade between Member States.
 - 3. Where a Member State encounters balance-of-payments difficulties arising from the application of the provisions of this Chapter, that Member State may be allowed by the competent organ of the Community, provided that it has taken all appropriate reasonable steps to overcome the difficulties, to impose, for the sole purpose of overcoming such difficulties, quantitative or similar restrictions or prohibitions on goods originating in the other Member States for such period as shall be determined by the competent organ of the Community.
 - 4. For the purpose of protecting an infant or strategic industry, a Member State may be allowed by the competent organ of the Community, provided it has taken all appropriate reasonable steps to protect such industry, to impose, for the sole purpose of protecting such industry, quantitative or similar restrictions or prohibitions, on similar goods originating in the other Member States for such period as shall be determined by the competent organ of the Community.
 - 5. Where the imports of a particular product by a Member State from another Member State increase in a way that causes, or is likely to cause, serious damage to the economy of the importing states. The latter may be allowed by the competent organ of the Community to apply safeguard measures for a specified period.
 - 6. The Council shall keep under regular review the operation of any quantitative or similar restrictions or prohibitions imposed pursuant to paragraphs 13, and 4 of this Article and shall take appropriate action in this

connection. It shall submit, each year, to the Assembly, a report on the aforementioned matters.

Article 36

Dumping

1. Member States shall prohibit the practice of “dumping” within the Community.
2. For the purposes of this Article, “dumping” shall mean the transfer of goods originating from a Member State to another Member State for them to be sold:
 - (a) At a price lower than the usual price offered for similar goods in the Member State from which those goods originate, due account being taken of the differences in conditions of sale, taxation, transport expenses and any other factor affecting the comparison of prices;
 - (b) In conditions likely to prejudice the manufacture of similar goods in the Member State.

Article 37

Most Favoured Nation Treatment

1. Member States shall accord one another, in relation to intra-community trade, the most-favoured-nation treatment. In no case shall tariff concessions granted to a third State pursuant to an agreement with a Member State be more favourable than those applicable pursuant of this Treaty.
2. The text of the agreements referred to in paragraph 1 of this Article shall be forwarded by the Member States parties thereto, through the Secretary-General, to all the other Member States for their information.
3. No agreement between a Member State and a third State, under which tariff concessions are granted, shall be incompatible with the obligations arising out of this Treaty.

Article 38

Re-export of Goods and Intra-Community Transit Facilities

1. During the third stage, Member States shall facilitate the re-export of goods among them in accordance with the Protocol concerning the Re-export of

Goods.

2. **Member States shall grant one another freedom of transit through their territories to goods proceeding to or coming from another Member State in accordance with the Protocol concerning Intra-Community Transit and Transit Facilities and in accordance with the provisions of any Intra-Community Agreements to be concluded.**

Article 39

Customs Co-operation and Administration

Member States shall, in accordance with the Protocol concerning Customs Co-operation, take all necessary measures for harmonising and standardising their customs regulations and procedures in such a manner as shall be appropriate for ensuring the effective implementation of the provisions of this Chapter and facilitating the movement of goods and services across their frontiers.

Article 40

Trade Documents and Procedures

For the purpose of facilitating intra-community trade in goods and services, Member States shall simplify and harmonize their trade documents and procedures in accordance with the Protocol the concerning Simplification and Harmonisation of Trade documents and Procedures.

Article 41

Diversion of Trade Arising from Barter or Compensatory Exchange Agreement

1. **If, as a result of a barter or compensatory exchange agreement relating to a specific category of goods concluded between a Member State or a person of the said Member State, on the one hand, and a third State or person of the said third State, on the other, there is substantial diversion of trade in favour of goods imported under such agreement and to the detriment of similar goods of the same category imported from and manufactured in any other Member State, the Member State importing such goods shall take effective steps to correct the diversion.**
2. **In order to determine whether a diversion of trade has occurred in a specific category of goods within the meaning of this Article, consideration shall be given to all the relevant trade statistics and other data available on such**

category of goods for the six-month period preceding a complaint from an affected Member State concerning diversion of trade, and for an average of two comparable six-month periods during the twenty-four (24) months preceding the first importation of goods under the barter agreement or compensatory exchange agreement.

3. The Secretary-General shall refer the matter to the Council for consideration and submission to the Assembly for decision.

Article 42

Trade Promotion

1. In order to attain the objectives of the Community set out in sub-paragraph 2 (m) Article 4 of this Treaty, Member States agree to undertake the trade promotion activities stated below in the following areas:
 - (a) Intra-Community Trade
 - (i) Promote the use of the Community's local materials, intermediate goods and inputs, as well as finished products originating within the Community;
 - (ii) Adopt the “All-Africa Trade Fair of the OAU”, as an instrument of the Community trade promotion;
 - (iii) Participate in the periodic fairs organised under the auspices of the “All-Africa Trade Fair of the OAU”, sectoral trade fairs, regional trade fairs and other trade promotion activities of the Community;
 - (iv) Develop an intra-community trade information network, linking the computerised trade information systems of existing and future regional economic communities and individual Member States of the Community; and
 - (v) With the assistance of the Secretariat, study the supply and demand patterns in Member States and disseminate the findings thereon within the Community.
 - (b) South-South Trade
 - (i) Promote the diversification of Africa's markets, and the marketing of Community products;
 - (ii) Participate in extra-community trade fairs, in particular, within the context of South-South Co-operation; and
 - (iii) Participate in extra-community trade and investment fora.
 - (c) North-South Trade

- (i) Promote better terms of trade for African commodities and improve market access for Community products;
 - (ii) Participate as a group in international negotiations within the framework of GATT and UNCTAD and other trade-related negotiating fora.
- 2. The modalities of organising trade promotion activities and trade information systems of the Community shall be governed by a Protocol concerning Trade Promotion.

CHAPTER VI FREE MOVEMENT OF PERSONS, RIGHTS OF RESIDENCE AND ESTABLISHMENT

Article 43

General Provisions

- 1. Member States agree to adopt, individually, at bilateral or regional levels, the necessary measures, in order to achieve progressively the free movement of persons, and to ensure the enjoyment of the right of residence and the right of establishment by their nationals within the Community.
- 2. For this purpose, Member States agree to conclude a Protocol on the Free Movement of Persons, Right of Residence and Right of Establishment.

CHAPTER VII MONEY, FINANCE AND PAYMENTS

Article 44

Monetary, Financial and Payment Policies

- 1. In accordance with the relevant Protocols, Member States shall, within a time-table to be determined by the Assembly, harmonize their monetary, financial and payments policies, in order to boost intra-community trade in goods and services, to further the attainment of objectives of the Community and to enhance monetary and financial co-operation among Member States.
- 2. To this end, Member States shall:
 - (a) Use their national currencies in the settlement of commercial and