

Specifically, article XXIV stipulated that, in forming customs unions or free trade areas (or interim arrangements leading to either), members must meet certain substantive and procedural provisions.

SUBSTANTIVE STANDARDS

Complete, not partial, elimination of "duties and other restrictive regulations of commerce" applied to products originating in members' territories.

Commodity coverage accounting for "substantially all the trade" among participants.⁴

No increase in restrictiveness of trade barriers against nonmembers; and

Development "within a reasonable length of time."

PROCEDURAL REQUIREMENTS

Article XXIV requires also that GATT members submit their proposed project to the GATT for sustained examination, with approval deferred until its real characteristics are revealed in operation. Where a free trade project clearly fails to meet the substantive standards, a waiver must be granted by two-thirds of its membership under article XXV. Such a waiver was granted in 1952 for the European Coal and Steel Community, and in December 1965, for the Canadian-American automotive agreement, both of which violated the MFN clause of the GATT without amounting to a free trade area or customs union as defined by the GATT.

⁴The precise meaning of "substantially all the trade" has never been given, but precedents for about 80 percent of total trade appear to have been set. The question of whether this rule would have to be waived to permit the exclusion of agricultural products might raise itself more seriously in a free trade area involving the United States, Canada and Australia than it did in the case of EFTA.