

26 October 1998

**UNICE comments on the notion of « good faith »
in preferential tariff arrangements**

The concept of good faith is in UNICE view a central question in the on-going reform of the preferential tariff arrangements. Therefore, it would like to underline its views on this key issue which it hopes it will be taken into account by the European legislator.

1. As stated in its 23 March 1998 position, UNICE believes that an importer who acts in good faith should be entitled to rely upon evidence of origin on condition it is provided by a duly authorised exporter in the country of export or validated by the customs authority in that country.
2. UNICE is against a rigid framework which would try strictly to define the obligation of every party involved and which would run the risk of tying business hands and would not correspond to today's flexible business practices. Moreover it is questionable whether any legal text (being a compromise) will be useful to reach the fixed objectives.
3. UNICE believes that jurisprudence from the European Court on this subject gives enough to go on. In addition UNICE believes that the discussion on « good faith » should be disconnected from the proposal to amend Article 220 and Article 221 of the Customs Code. In this respect, UNICE doubts whether the legal basis for the proposed formulation is correct. The question arises as to whether it is possible to recover a customs debt before the liability has been determined.

However, UNICE understands the practical, legal and political difficulties of finding a solution to this issue. Moreover the fact that no international agreement makes reference to the financial liability of the parties involved does not help.

For these reasons, UNICE experts are ready to study the question with Commission officials in order to find a solution which would be acceptable to every party concerned and would give greater certainty to economic operators.
