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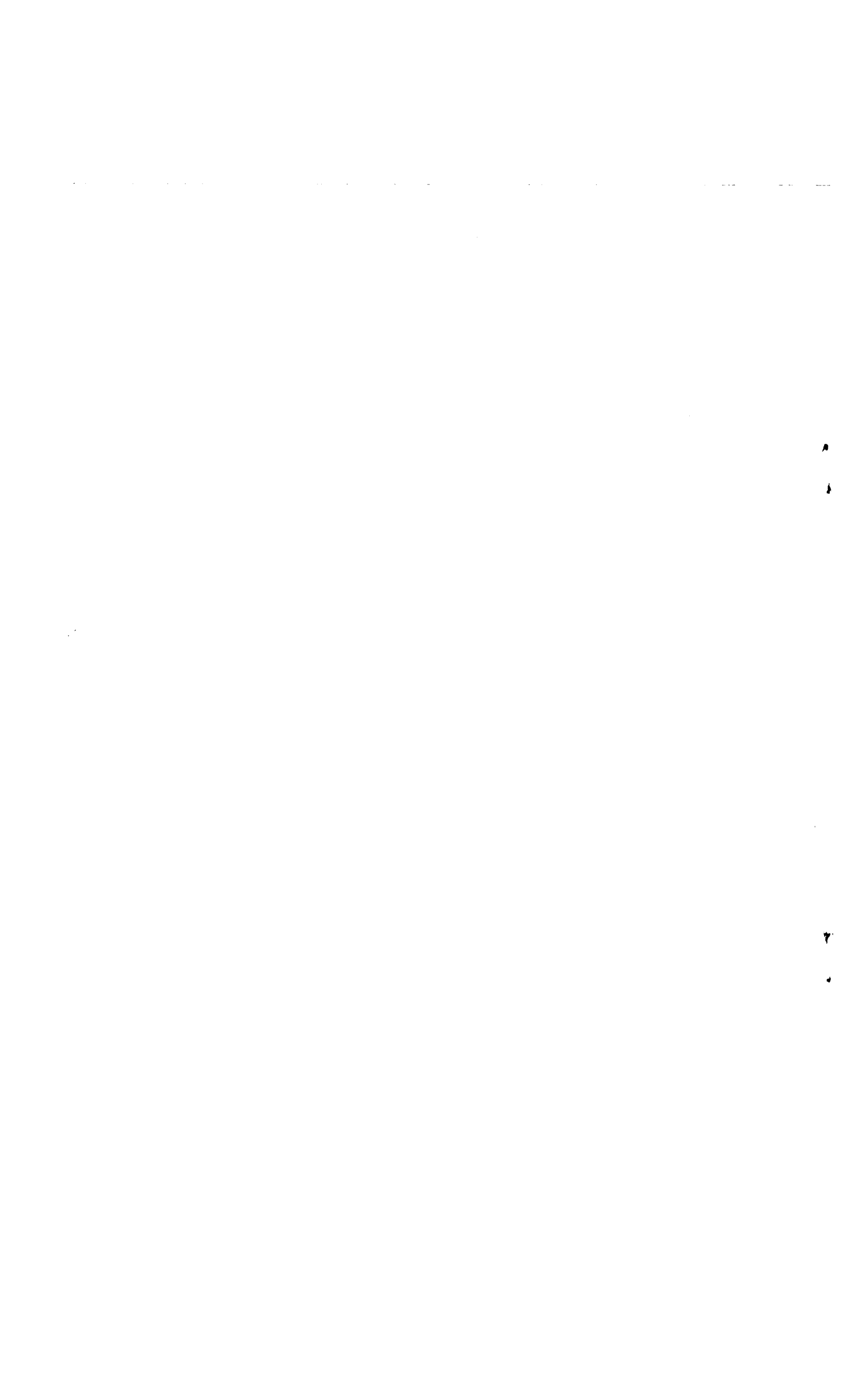
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TOWARDS FULLER CUSTOMS UNION OPERATIONS
WITHIN THE OECS

III
Preliminary Overview

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REGULATION AND ADMINISTRATION OF TRADE.

The two preceding sets of notes in this Preliminary Overview provided a brief outline of the main areas where the achievement of uniformity is desirable for better customs union operations; observations concerning unification of the OECS/ECCM Common External Tariff (CET); and invited attention to the question of charges which have equivalent effect to customs duties. This set of notes is intended to initiate consideration of several of the non-tariff elements that affect trade.

It is worth recalling that within the terms of the General Agreement on Tariffs and Trade (GATT) a custom union is understood to mean the substitution of a single customs territory for two or more customs territories, so that

- "(i) duties and other restrictive regulations on commerce are eliminated with respect to substantially all the trade between the constituent territories of the union or at least with respect to substantially all the trade originating in such territories, and
- (ii) substantially the same duties and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union".^{1/}

Given the wide acceptance of the GATT definition among trading nations, it follows that in reviewing the question of customs union operation throughout the OECS area consideration should be given not just to the tariff framework, but also to the range of non-tariff aspects affecting trade.

^{1/} Article XXIV para. 8(a).

General Trade Regulations

At the level of general trade regulations, (i.e. in terms of prohibitions, licensing, permits and special certifications), a substantial degree of uniformity has already been achieved throughout the OECS area. For ease of reference and comparison the general import trading regulations of the seven OECS territories are brought together in summary table 4.

The OECS territories maintain few prohibitions on imports. As would be noted from the condensed information in the summary table, the particular prohibitions range from general to specific. Most of the OECS territories maintain a general prohibition against all imports from South Africa; and it would seem that there is no other such all-embracing prohibition. In some cases there is a more limited general prohibition against the transmission of perishables through the general mail service. But for the remainder, such prohibitions as operate are specific whether as to country or as to products. In one country there is a specific drug prohibition (hexachlorophene), as also of pyrotechnics products; in another there is prohibition of imports of processed fruits and vegetables except from specified sources; and in one other territory there is prohibition of bags, sacks, etc. previously containing cotton. There is only one case where prohibition has been stated in terms of goods competing with local products.

As regards licensing requirements, the general practice is that most goods are imported into the OECS territories under open general licence; but this is supplemented by a list of items that require individual licensing - and the specific items on the lists vary from the one territory to the next. In addition there are specific licensing requirements for pesticides in two of the territories; and in another territory there is the requirement for licensing of imports from centrally planned European and Asian countries. In cases where specific licenses are required, they are usually valid for six months; but in any event the goods must arrive before the end of the calendar year.

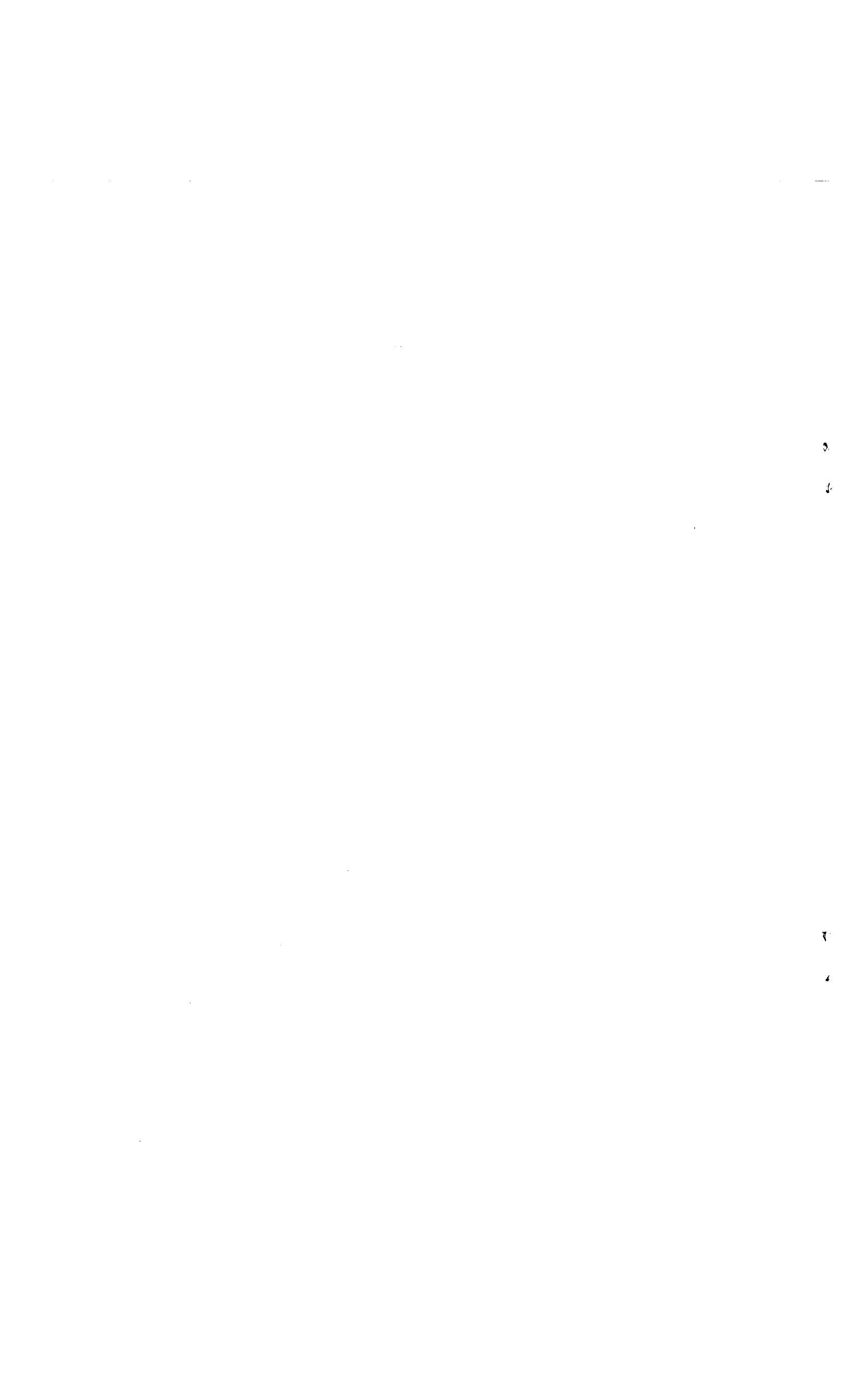
Similarly, there is fairly broad uniformity as regards items of imports that require prior approval and permits. In every territory drugs and pharmaceuticals fall in this category; and in fact it is only in one

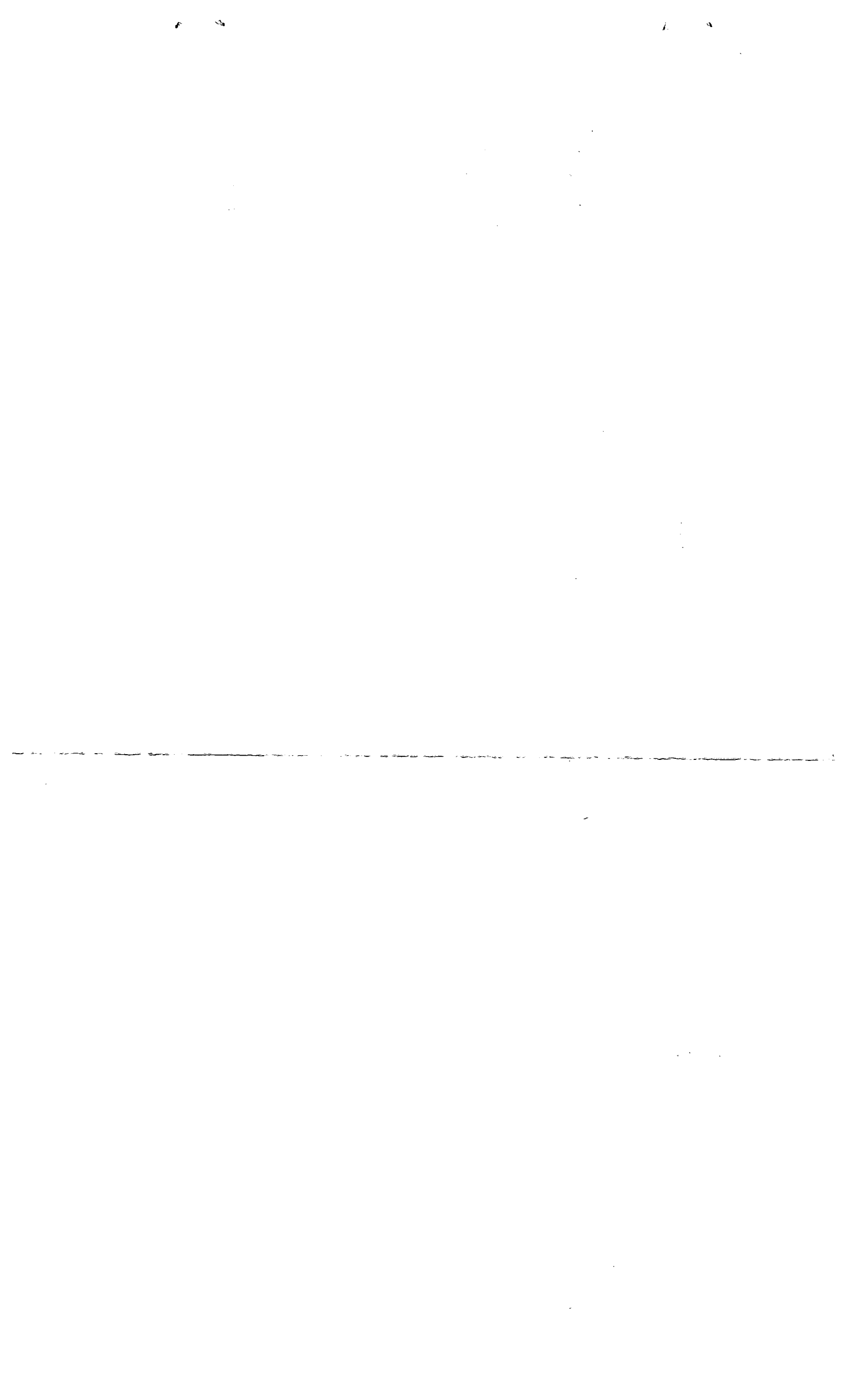
territory that this particular requirement applies to other products - in that case "live animals meat and certain meat products", and "firearms ammunition and explosives".

Generally, live animals, meats and some food products are treated along with plants and parts of plants, as requiring the imports to be accompanied by certificates, primarily for satisfying health requirements. Beyond that some special certifications may be required depending on the nature of the goods. Sanitary certificates (e.g. certification of disinfection where there are importations of used clothing), phytosanitary certificates (for live plants), and veterinary certificates are required in all the territories. In addition at least one territory requires foreign meat inspection certificates for imports of frozen, chilled, salted or canned meats; and in another territory certificate of origin is required for all processed fruit and vegetables.

This very capsulated overview of the several sets of general trade regulations is meant to show what exists and also the variations as between the individual OECS territories. The latter consideration is important in the context that the customs union embracing all the OECS should operate as a single customs territory. It would therefore be immediately apparent that it would be eminently desirable to have the maximum obtainable uniformity of trade regulatory devices, if the overall objective of fuller customs union operations is to be achieved.

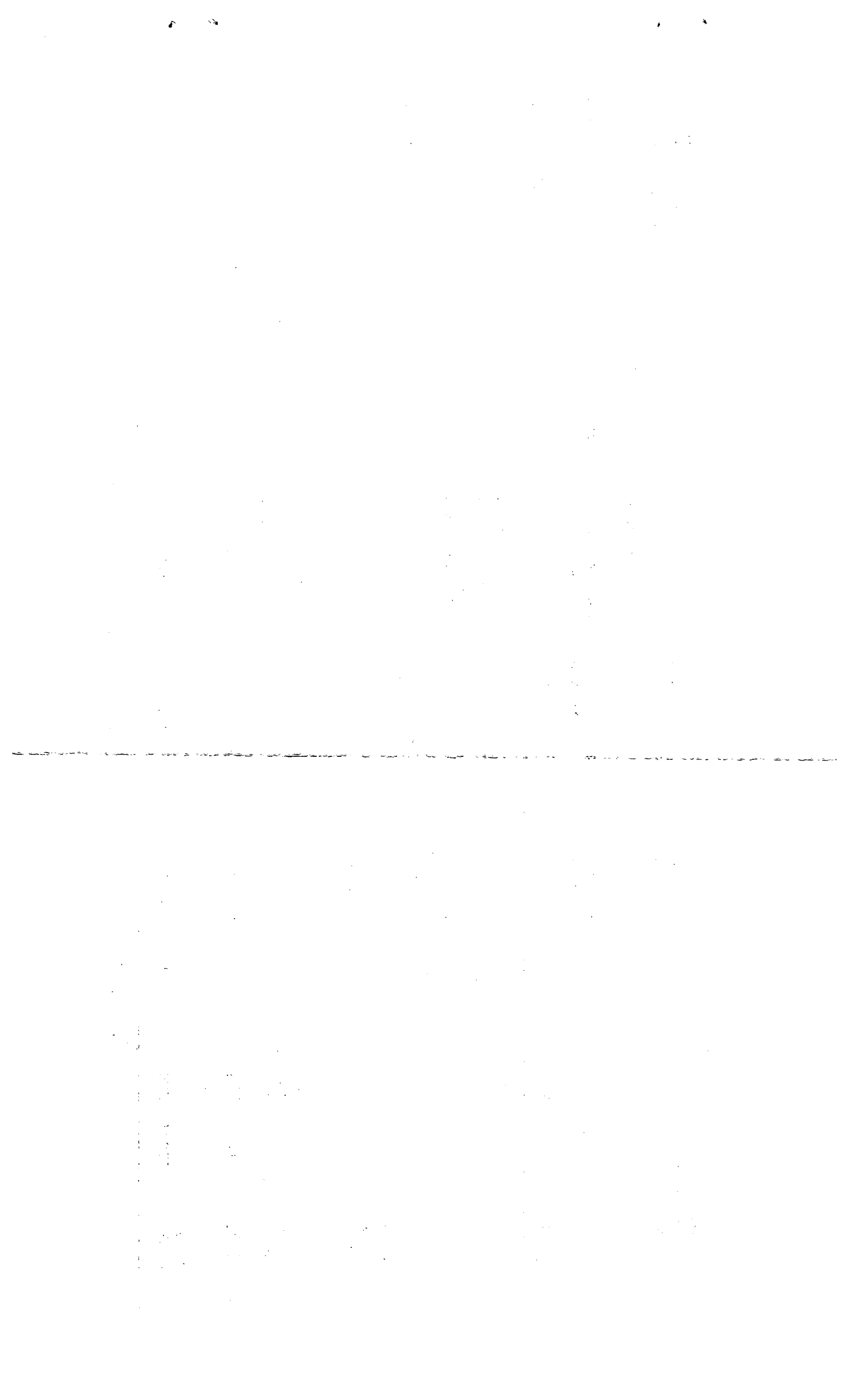
Obviously, to get greater uniformity in the sets of general trade regulations will require prior detailed discussions and consultations among the governments. On the question of prohibitions, for example, the possible range is from all the territories applying all the prohibition that exist, through to some abolitions and retentions that may emerge from negotiations. As regards licensing, the issue would be whether a common list could be agreed for the range of items that require individual license, which in turn depends on the several considerations that determine inclusion of each individual item in each country list. The third main area for agreement would be on the





ANTIGUA/BARBUDA	DOMINICA	GRENADE	MONTserrat	ST. KITTS/NEVIS	SAINT LUCIA	ST. VINCENT/ GRENADINES
<u>PERMITS</u> Drugs and Pharmaceu- ticals (require prior approval).	<u>PERMITS</u> Drugs and Pharma- ceuticals (prior approval).	<u>PERMITS</u> Drugs and Pharma- ceuticals (prior approval).	<u>PERMITS</u> Drugs and Pharma- ceuticals (prior approval).	<u>PERMITS</u> Drugs and Pharma- ceuticals (prior approval).	<u>PERMITS</u> Certain drugs and Pharmaceuticals. Live animals, meats and certain meat products. Firearms, ammuni- tion and explosives.	<u>PERMITS</u> Drugs and Pharma- ceuticals (prior approval).
<u>SPECIAL CERTIFICATIONS</u> According to nature of goods. Live animals, plants, parts of plants and food-stuffs require health certificate.	<u>SPECIAL CERTIFICATIONS</u> Sanitary, Veterinary free sale etc. (according to nature of goods). Live animals, plants, parts of plants and food-stuffs need accom- panying health certificates.	<u>SPECIAL CERTIFICATIONS</u> According to nature of goods. Live animals, plants, parts of plants and food-stuffs require health certificates. Foreign meat in- spection certifi- cates required for frozen, chilled, salted or canned meats.	<u>SPECIAL CERTIFICATIONS</u> According to nature of goods. Live animals, plants, parts of plants and food-stuffs require health certificates.	<u>SPECIAL CERTIFICATIONS</u> According to nature of goods. Disinfection cer- tificates re- quired for plants, plant products and goods containing cotton, cotton seed, etc. Live animals re- quire health certificates.	<u>SPECIAL CERTIFICATIONS</u> According to nature of goods. Phytosanitary cer- tificates for im- ports of live plants and parts of plants. Live animals, plants, parts of plants and food-stuffs require health certificates.	<u>SPECIAL CERTIFICATIONS</u> According to nature of goods. Live animals, plants, parts of plants and food-stuffs require health certificates.
Certificates of origin required for all pro- cessed fruit and vegetables.						

*Subject to further check with the OECS/Economics Secretariat.



items that require permits or approval prior to importation, as distinct from those items where importation can be effected so long as the stipulated certification requirement is satisfied. Beyond the above is the question of uniformity in certification requirements.

Even if complete uniformity were not achieved, the common acceptance of a text setting out those general trade regulations that are uniformly applicable throughout the OECS area, and such specific regulations as would apply in individual territories, would itself be a substantial advance. This should not be too difficult to achieve, given the broad areas of similarity that already exists.

Special Trade Treatment

In all the OECS territories special conditions attach to the importation of goods that are of OECS origin and of CARICOM origin. These conditions are consistent with the terms worked out and applied under the common market agreements that are annexed to the OECS Treaty and the CARICOM Treaty respectively. The shipments of such goods are required to be covered by certificates of origin, if they are to obtain common market treatment.^{2/} In the case of non-CARICOM countries, certification of origin is usually not required.

Trade Documentation

It hardly seems necessary to stress the high desirability for the customs union operations to utilize a standardized set of document forms for the administration of trade. To achieve this however, there would have to be agreements on the sets of information needed, and the formats in which they should be presented. The various forms that are used in regard to licensing, permits and certifications vary in these two respects among the OECS territories. It also needs to be borne in mind that the various contents and formats in use are invariably specified in the national legislations. Clearly this is an area for review and consultations among the governments.

^{2/} Intra-OECS trade is governed by the OECS Treaty which has special provisions as to rules of origin.

Already a start has been made in that direction. The OECS territories (along with the other CARICOM countries) decided that effective from 1 January 1981 there should be standardization of the information required for the commercial invoicing of imported goods. In addition it was recommended that the format be aligned with the layout key adopted by the United Nations Economic Commission for Europe (ECE). In practice, while traders are urged to use the ECE layout, they are free to adopt any document layout for the invoice so long as the required information is presented. It is worth noting that the information required in the OECS territories is that shown in the ECE layout, (with, some additional items, for example: presenting bank, net weight, port of loading, country of final destination). In some territories it is also required that a certificate signed by an authorised person be given on the invoice - the certificate being in the format recommended by the ECE. There is too the requirement by some territories that invoices must show cost of insurance, packing, freight, and other charges, separate from the cost of goods.

Mention was made above that the invoice has to be accompanied by customs warrant or declaration submitted by the importer, and also, import license where one is required. Depending on the nature of the goods there may be need for additional documents/certificates, as is indicated in the summary table. And while there is a measure of uniformity in documents for CARICOM trade (not just the invoice but also with the certificate of origin) there is greater variety of documents formats in respect of non-CARICOM trade. In addition, further variations exist in the content and format of the applications for licenses and permits and prior approvals. In fact there is an arguable case not only for standardization but also for a measure of simplification. Clearly the correct and logical approach would be by means of a comprehensive study of all informational and procedural requirements for the execution of trade, and the negotiation of and agreement on common "standards" for this purpose. The acceptance and application of international "standards" would greatly reduce the complexity of the task, while facilitating the freer flow of international trade.

Aside from the above-mentioned documents there are several others that appear in trade transactions, some of which are not specified in legislation as being required for customs clearance of goods. In the main these consist of certificate of value, shipping advices and documents, packing instructions/list (to facilitate cargo-handling and other intermediary services), and insurance documents/certificates. Although valuation is a key aspect of customs clearance, there seems to be few cases where a specific certificate of value is requested. Instead, the practice seems to be acceptance of proforma invoice to substantiate import license application of advance payment application, supported on entry of the goods by the commercial invoice.^{3/}

It is notable that though the "Bill of Lading" and the "Air Waybill" are extensively employed for shipments of surface cargo and air cargo, respectively, there seems to be no special regulations concerning their use. Primarily their purpose is to establish the carrier's official acknowledgement of receipt of the goods for shipment - but they have become an integral part of the documentation for clearance of goods through customs. In the case of mail or parcel post shipments, the bill of lading or air waybill is replaced by alternative postal documentation. In this regard the customs declaration form 2966 A and the customs label CI (form 2976) "Authority for customs to open International Mail", seem to be in general use throughout the OECS area.

Similarly there are not regulations concerning certificates of insurance, the stipulations for which are usually set by the importers or the insurance companies. Also, as regards packing instructions and packing lists, except in the case of hazardous and/or restricted materials, there are no broad body of regulations.^{4/} However as in the

^{3/} More detailed checking of the procedures of valuation for customs purposes, in each of the OECS territories, is of course necessary.

^{4/} Saint Lucia requires that all importations of spirits should have the name of the agent/distributor incorporated into the label affixed to each bottle.

case of the bill of lading, the packing list in some cases has become integral to the customs clearance procedures, in that it allows the goods to be more easily identified and matched with the documents. It should however be noted that where the necessary packing details are already included in the invoice, there is not a real need for the packing list for clearance purposes⁷.

Clearance and Warehousing

As regards the arrival of goods at port, their entry and clearance through customs, and the related warehousing regulations for goods not promptly cleared, summary table 5 reflects some of the variations between the OECS territories. Except for the differences in details the procedures are essentially the same for all the OECS territories. They may be summarised as follows:

(i) goods should be entered with the customs and cleared through customs within a stipulated number of days, after which period uncleared goods in transit sheds begin to accrue rental charges;

(ii) in the event that the documents required for clearance of the goods are not available, the competent authority^{5/} may in his discretion permit entry and clearance after exacting a deposit^{6/} in respect of the chargeable customs duty and the commitment that the necessary documents are presented within a stipulated time period - in most cases three months;

(iii) goods remaining unentered and uncleared at the end of the period stipulated at (i) above may be transferred to a Queen's warehouse for a further stipulated period to await entry; and

(iv) after a specified duration in a Queen's warehouse the goods are subject to sale at auction.

The rates for fines and penalties attaching to unentered and uncleared goods are not reflected in this brief overview⁷.

^{5/} Treasurer in Antigua/Barbuda, Dominica, St. Vincent/Grenadines; Comptroller of Customs in Grenada, St. Kitts/Nevis, Saint Lucia.

^{6/} Saint Lucia specifies deposit of not less than one and one half times the approximate duties.

SUMMARY TABLE 5*

CLEARANCE AND WAREHOUSING OF GOODS

	Time permitted for entry and clearance after arrival in port (thereafter charges accrue).	Goods transferred to Queen's Warehouse if not entered/cleared after	Permitted storage in Queen's Warehouse (before being subject to sale/auction)
ANTIGUA/BARBUDA	6 business days	6 days	2 years
DOMINICA	6 days	6 days	2 years
GRENADA	5 days	5 days	3 months ^{1/} 2 years
MONTserrat	7 days	7 days ^{2/}	6 months
ST. KITTS/NEVIS	4 business days	10 days	2 months
SAINT LUCIA	7 clear days	7 days	1 month ^{3/}
ST. VINCENT/ GRENADINES	6 days	6 days	2 years

*Subject to further check with OECS/Economics Secretariat.

1/ After 3 months goods subject to sale at auction, unless importer decides to re-warehouse them. Re-warehoused goods can remain for up to 2 years.

2/ Goods are stored in the Government warehouse for 7 days free of charge.

3/ After 1 month goods are advertised for sale for 1 additional month and subsequently sold at auction.

Regulations Governing
Trade Settlements

These regulations already have a high level of uniformity, and the features that are common in all the OECS territories may be summarised as follows:

- payments for authorized imports are permitted upon application and submission of documentary evidence (usually specified as invoice and customs warrants and import license when required);
- advance payments for imports require prior approval by the appropriate Ministry;
- settlements within the ECCM must be made in EC dollars (all other currencies being subject to exchange control);
- settlements with non-ECCM CARICOM countries may be made either through external accounts (EC\$) or in the country's currency;
- settlements to non-CARICOM countries may be made in any foreign currency or in EC\$, within the general stipulation that such payments be made in the currency in which the imports are invoiced.^{7/}

This last category has greater amplification in the Grenada regulations in the terms that settlements with residents of the former Sterling Area countries (other than CARICOM countries) may be made in sterling, in any other former sterling area currency, or in East Caribbean dollars to and from external accounts. Settlements with residents of countries outside the former Sterling Area - other than South Africa - may be made in any foreign currency other than East Caribbean dollar or through an external account in EC dollars.

^{7/} In at least one territory there is the provision that when justified by the nature of the transaction approval may be given to make payment for goods and services in a currency different from that of the country to which the payment is to be made.

As regards payments for invisibles, it should be noted that in both Dominica and Grenada there is an explicit requirement for exchange control approval.

In most of the OECS territories the responsible Ministry allows authorised banks and dealers to approve payments for imports originating in CARICOM countries and certain other outward payments, within the exchange control framework and within their authorised currencies trading operations. There is also the condition that foreign exchange transactions (where payment for goods is done in foreign currency) are subject to a levy, (which varies from the one OECS territory to another)^{8/}.

8/

Current Charges for Foreign Exchange
(Subject to further check)

<u>Country</u>	<u>Rate (%)</u>
Antigua/Barbuda	1.0
Dominica	1.5
Grenada	5.0
Montserrat	...
St. Kitts/Nevis	...
Saint Lucia	2.0
St. Vincent	1.0

