

GENERAL AGREEMENT ON TARIFFS AND TRADE

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FRANCE-TUNISIA CUSTOMS UNION

Memorandum submitted by the French Delegation

In a communication addressed to the Executive Secretary on 13 February 1956, and distributed under symbol No. L/475, the French Government informed the CONTRACTING PARTIES that the Economic and Financial Convention of 3 June 1955, creating a Customs Union between France and Tunisia, and the Protocol of Application for the said Convention, entered into force as from 1 January 1956.

A copy of the common tariff of the France-Tunisia Customs Union was distributed to each of the contracting parties. The texts of the Convention and of the Protocol of Application are appended to document L/475.

The aim of the present memorandum is to set out, pursuant to the provisions of paragraph 7(a) of Article XXIV, the changes introduced in trading conditions and customs tariffs previously applied in each of the constituent States of the Customs Union.

I.

TRADE SITUATION PRIOR TO THE ESTABLISHMENT OF THE CUSTOMS UNION

(A) Tariff provisions

Trade between France and Tunisia was previously regulated by the Act of 30 March 1923, by which a partial customs union between the two countries was established. According to this Act, and the texts issued subsequently to supplement or amend it, Tunisian goods included on the list entitled "customs union list", as published by Decree, were admitted free of duty into the French customs territory such as it is defined by Article 1 of the Customs Code.

"The French customs territory includes the territories of continental France, Corsica, the French islands bordering on the French coast, the French overseas departments and Algeria, including their territorial waters."

Tunisian goods not included in the customs union list were subject to minimum metropolitan duties throughout the customs territory.

* This revision is in English only. It is issued in order to provide a more accurate translation than that given in L/559.

On a basis of reciprocity, goods originating from the French customs territory could be imported into Tunisia free of duty if included on the customs union list; otherwise they were liable to the duties shown in a special column of the Tunisian tariff.

The Tunisian tariff, the nomenclature of which followed that of the French tariff, included two columns: (i) goods originating in and from the French customs territory, and (ii) goods of any other origin.

Since the tariff reform which resulted from the Decree of 30 December 1948, the tariff consisted almost exclusively of ad valorem duties; the remark "special class" (régime spécial) found opposite a very large number of tariff items, indicated that they were products mentioned in the customs union list which could be imported into Tunisia free of duty when originating in and coming from French customs territory.

The customs union list included the greater part of the goods traditionally traded between France and Tunisia including, for example, live animals and butcher's meats, dairy products, fish, fresh and dried fruits and vegetables, cereals and their flours, refined vegetable oils, preserved foods, confectionery and sweetmeats, furniture, thread, tissues, ready-made articles of clothing of all textiles, footwear, glassware, semi-finished copper products, cutlery, copper articles of adornment, office machines and apparatus, etc.

In addition, France was also entitled to preferential rates of duty for the greater part of the articles not included in the customs union list. Thus, for example, the following goods could be imported into Tunisia free of duty: all iron and steel products, semi-finished products of non-ferrous metals other than copper, manufactures of metal, civil engineering equipment, machine tools, electrical articles of construction, motor vehicles, whereas similar products of foreign origin were liable to customs duties generally fixed at 10 per cent (30 per cent on motor vehicles). For other tariff items, the duty was generally 5 per cent for French goods and 10 per cent for foreign products. In a few cases, however, French goods paid the same duty as like products of foreign origin.

Foreign goods imported into Tunisia were subject to the rates of duty provided for in the Tunisian tariff, except products mentioned in the customs union list, for which duty was paid in accordance with the metropolitan tariff.

A special system was introduced by the Decrees of 20 November 1927, 19 July 1928 and 7 January 1929 for wines, grape must and distilled beverages originating in or coming from France or Algeria which, subject to certain existing prohibitions, could be imported free of duty into Tunisia. Subject to the same reservations, the same beverages, when imported from foreign countries into Tunisia were subject to the rates of duty provided for in the French tariff. Wines obtained from the fermentation of fresh grapes, dessert wines, mistelles and Tunisian wines with fermentation arrested by the addition of sulphur were free from duty within quota limits when imported into French customs territory; any quantities imported over and above the quotas established were subject to the minimum rate of duty.

(B) Elegibility for preferential tariff treatment

(a) On importation into France:

The application of the preferential tariffs mentioned above was governed by the following conditions:

1. The products had to be imported direct from Tunisia.
2. They could be shipped, except in the case of exports to Algeria effected overland, only through the ports of Tunis, La Goulette, Bizerta, Sousse, Monastir, Mahdia, Sfax, Gabes, Djerba, Zarzis and Tabarka.
3. They had to be accompanied by a certificate of origin issued by the authorities in the place of departure and visaed by the customs authorities of the port of embarkation.
4. They had to be transported by French vessels.

(b) On importation into Tunisia:

In order to be entitled to a preferential tariff, the goods had to be imported direct from French customs territory, that is to say transported without intermediate call from the place of departure to the place of destination, or, where intermediate calls were permissible, subject to the relevant requirements being fulfilled. The goods had to be covered by a transire issued by the customs authority of the port of embarkation.

Goods shipped from France to Tunisia, or vice versa, that did not fulfil the above requirements were subject to minimum rates of duty on importation into France and, on importation into Tunisia, to French duty rates or to the relevant autonomous Tunisian rates of duties, as the case might be.

When foreign goods in respect of which duty had already been paid upon importation into Tunisia were eventually re-exported to French customs territory, the difference between the Tunisian duty already paid and any higher metropolitan duty was collected.

(C) Restrictions on imports

Trade in goods between the two territories was not subject to the controls exercised over foreign trade or exchange transactions. The only exceptions to this freedom of trade arose out of the application of prohibition measures adopted in either, or both, of the two territories for reasons of security, to protect health, patents, trademarks and copyrights or to enforce monopolies.

On the other hand, products of foreign origin imported into Tunisia were subject to the same regulations concerning quantitative restrictions as those applied in the Metropolis. The OEEC liberalization measures introduced in France had not, however, been extended to Tunisia.

II.

THE SITUATION RESULTING FROM THE FORMATION OF THE CUSTOMS UNION

Although the economic importance of the decision taken by the French and Tunisian Governments to constitute their respective customs territories into a Customs Union is considerable, it should not be forgotten, however, that, as described in the first part of this memorandum, a partial customs union which covered the greater part of French-Tunisian trade had already been in existence since 1928 between France and Tunisia.

One of the consequences of the Economic and Financial Convention of 3 June 1955, was to make the partial customs union total. This fact implies not only the abolition of all customs barriers between France and Tunisia but also the suppression of the previous French and Tunisian tariffs and their replacement by a common customs tariff. From now on, the same prohibitions and restrictions, the same customs duties and, generally speaking the same customs laws and regulations, shall, in principle, apply to the trade of both members of the Customs Union with foreign countries.

(A) Tariff provisions

Relationships within the territory of the Union are governed by Chapter IV of the Protocol of 30 December 1955 relating to the France-Tunisia Customs Union. Article 12 of the Protocol states that "products originating in one of the territories of the Union shall not, when shipped in direct consignment to another territory within the Union, be subject to any prohibition or restriction or to any customs duty either when going out of the territory of origin or when coming into the territory of destination".

They may not be subject to internal taxes or other internal charges of any kind in excess of those applied to like domestic products. In addition, products originating in the Union may in no case be subjected in one of its constituent territories to less favourable treatment than products of foreign origin of the same kind.

The free movement of goods between the two countries extends, also from a tariff standpoint, to foreign goods imported into one of the territories of the Union subject to payment of duties provided for in the common tariff and to observance of the common customs regulations. This general rule may be waived in exceptional cases where foreign goods are subjected, in the first importing country in the Union, to customs duties - related taxes lower than those applicable in the territory of destination. In such cases, the difference between the charges payable in the territory of destination and the charges already paid in the first importing territory is collected.

Special regulations have been issued in respect of products of foreign origin which have been transformed or have been further processed in one of the territories of the Union and are subsequently shipped to another territory within the Union. These regulations are set out in Article 14 of the Protocol. To put it briefly, freedom from duties and related taxes is granted to goods

such as raw materials and semi-finished products of foreign origin, which have been processed in one of the territories of the Union, provided that the processing has conferred on the goods a new individuality and that the value of the products utilized does not exceed 25 per cent of the value of the processed goods.

For the application of these regulations, importers may be required to provide in each of the constituent States of the Union, documentary evidence concerning the conditions in which processing has taken place and the quantity and value of the raw materials and semi-finished products utilized.

Where processing has taken place under a system of duty suspension, duties and related charges existing in the territory of destination must be paid on the foreign raw materials used, the assessment being made on the basis of the materials as they were before processing occurred.

(B) Procedures for amending the Union tariff

Article 7 of the Protocol of Application provides that the customs tariff of the Union may be modified only by common agreement between the two contracting parties. Such agreement is, however, expressly required only if the modifications contemplated by one of the contracting parties are likely to affect the interests of the other party. This article of the Protocol corresponds to Article XIII of the Convention according to which: "customs duties applicable to products which present directly or indirectly a positive interest for either country shall not be modified without the agreement of the country concerned."

There has been established, therefore, for each contracting party a list of important goods. These lists are contained in Annex VI to the Protocol of Application. List A incorporates the products of direct or indirect positive interest to France. List B which mentions the products of direct or indirect positive interest to Tunisia, is divided into two parts; Part I incorporating products for which any reduction or suspension of the common tariff duty requires prior agreement by Tunisia, Part II including products for which Tunisia agrees, on a revocable basis, that France should after consultations, act on its behalf, to safeguard the common interests of the two States.

Furthermore, in order to facilitate the necessary readaptations and to ensure that the administration of the common tariff does not bring about a notable increase in the cost of living, unduly hamper the equipment expansion, hamper the normal flow of supplies, or generally result in appreciable disturbances to economic life, the Protocol provides that duties in the Union tariff may be temporarily suspended in whole or in part. The items in respect of which duties may be temporarily suspended in whole or in part in Tunisia are listed in Annex VII to the Protocol.

(C) Elegibility for Customs Union treatment

(a) Three copies of the exit declaration signed by the customs authorities of the place of departure must be attached to the entry declaration for the territory of destination in respect of goods originating in a territory of the Union. These documents must give the details necessary to enable the administration of the territory of destination to compute exactly any customs duties and related taxes which may be applicable.

The requirement that the exit declaration shall be supplied in triplicate may, however, be waived where goods are sent by letter post, parcel post or by air.

(b) The requirement of direct consignment which existed before the formation of the Customs Union has been maintained (Article 15 of the Protocol). Goods originating or processed in one of the territories of the Union are subject to duties and related taxes when shipped indirectly to another of the Union. In case of indirect shipment, foreign goods are also taxed as if they were imported directly from their country of origin.

The France-Tunisia Agreement concerning maritime navigation, signed at Tunis on 28 December 1955, reserves the right to transport goods between Tunisian ports and French ports (those in French overseas departments excepted) for vessels flying the French flag or a flag having equivalent status, and vessels flying the Tunisian flag.

IMPORT RESTRICTIONS

Products originating in one of the territories of the Union and imported into another territory within the Union are not subject to any formalities relating to foreign trade or exchange controls on production of proof of origin and of direct consignment. The same applies in the case of foreign goods in respect of which a statement affixed to the accompanying documents certifies that such formalities have been completed in the territory of shipment.

Other foreign products are subject to formalities relating to foreign trade and exchange controls in the usual conditions.

Each of the two States, however, is at liberty to subject its trade with the other State to prohibitions or restrictions of the same kind as those that are listed in Article XX of the General Agreement. Items affected by such prohibitions and restrictions, which are also applicable to trade with foreign countries, are listed in Annexes VIII (monopoly products) and IX to the Protocol of Application relating to the France-Tunisia Customs Union.

III.

THE FRANCE-TUNISIA CUSTOMS UNION AND G.A.T.T

The France-Tunisia Customs Union is the outcome of Article 11 of the Economic and Financial Convention signed in Paris on 3 June 1955. This Article reads as follows:

"Recognizing that the prosperity and stability of their economies can best be secured through an expansion of their mutual trade, France and Tunisia agree to constitute their respective customs territories into a Customs Union."

Moreover, the preamble to the Protocol of Application relating to the Customs Union between France and Tunisia states:

"The Government of France and the Government of Tunisia, considering that the conduct of the commercial policy of the two countries should be regulated on a basis of mutual advantages and, to that end, that recourse should be had to that international instrument known as a 'Customs Union'."

Agree as follows:

"The Customs Union to be established under provisions of Chapter II of the Economic and Financial Convention shall be established in conformity with the provisions of Article XXIV of the General Agreement on Tariffs and Trade in order that the Union may be recognized internationally without previous discussion in the relevant international bodies."

From the above it is clear that the French and Tunisian Governments have throughout been fully aware of the undertakings to which they have subscribed and indirectly within the framework of GATT. It was, therefore, on the basis of the principles set forth in Article XXIV that the France-Tunisia Customs Union has been established.

(a) The France-Tunisia Customs Union corresponds fully to the definition given in paragraph 8 of Article XXIV.

It involves no exception either to the requirement that "substantially" the same duties and other regulations of commerce shall be applied to trade with foreign countries, or to the requirement that duties and other restrictive regulations of commerce shall be eliminated with respect to "substantially" all the trade within the Union.

Adjustments made necessary by the special economic situation of the two countries are made so as not to prejudice these two principles.

(b) The notification required by paragraph 7(a) was given to the contracting parties in due time. (Statements made before the CONTRACTING PARTIES on 21 December 1954 and 2 December 1955).

(c) In accordance with the provisions of paragraph 5(a) of Article XXIV, the duties or other regulations of commerce imposed at the institution of the Union in respect of trade with contracting parties not parties to the Union are not on the whole higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of the Union.

The general incidence of Tunisian duties was lower than that of French duties. Considering the relative importance of the volume of trade of each

of the two countries with third countries, the common tariff is closer to the former French tariff than to the former Tunisian tariff. Computations effected on the basis of customs levies show that the application of the new common tariff has resulted, for Tunisia, in an increase in customs revenue of about 545 million francs for tariff items where this tariff implies an increase in the rates previously applied, and in a reduction of about 24 million francs in respect of items for which the common tariff implies a reduction of the former Tunisian duties. The tables annexed to this document show the reductions in the French tariff and in the Tunisian tariff which have been agreed in order to maintain the average tariff incidence of the former tariffs as required under paragraph 5 (a) of Article XXIV of the General Agreement.

(d) Paragraph 6 of Article XXIV provides that if, in fulfilling the requirements of paragraph 5(a), a contracting party proposes to increase any rate of duty inconsistently with the provisions of Article II, the procedures for the withdrawal of concessions set forth in Article XXVIII shall apply. It also provides that due account must be taken of the compensation already afforded by the reductions brought about in the corresponding duty of the other constituents of the Union.

The French Government is prepared to submit to the procedures of Article XXVIII concerning withdrawal of concessions; it considers however that the agreed reductions of duties, which it in fact is prepared to bind under its GATT schedules, should compensate for the increase in bound duties which have become necessary as a result of the formation of the France-Tunisia common Tariff.

(e) The France-Tunisia Customs Union also meets the requirements of paragraph 9; in practice, nothing is changed as regards the preferential system applied previously to the territories mentioned in paragraph 2(b) of Article I.