

GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONTRACTING PARTIES

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ASSOCIATION OF GREECE WITH THE EUROPEAN ECONOMIC COMMUNITY

Report of Working Party

1. The Working Party was set up by the CONTRACTING PARTIES during the nineteenth session with the following terms of reference:

"To examine, in the light of the relevant provisions of the General Agreement, the provisions of the Agreement creating an Association between Greece and the European Economic Community and to report to the CONTRACTING PARTIES."

2. The Working Party met on 10, 11 and 14 September 1962 and had at its disposal replies¹ provided by the parties to the Agreement of Association to questions submitted by contracting parties in accordance with the procedures agreed upon at the nineteenth session² concerning the provisions of the Agreement³ and its implementation.

3. The Agreement of Association, which was signed in Athens on 9 July 1961, is to come into force on 1 November 1962.

The Association Agreement and Article XXIV of the GATT

4. Referring to Article XXIV:5(a) the representative of Greece explained that, as the Greek tariff was a high one, the adoption of the common external tariff of the EEC by his Government would result in a lower tariff than would have been permitted by the Article. The process would lead to the adoption of the common tariff by Greece and to a substantial reduction of duties in the Greek tariff.

5. Members of the Working Party, while reserving judgement under Article XXIV:5(a), recognized that, given the nature of the two tariffs, this might well be so in the present case. It was stated by some members of the Working Party that in fact the incidence of the common external tariff was higher on some of their important export items than that of the Greek Tariff.

¹L/1790/Rev.1

²SR.19/11

³L/1601 and Add.1

6. Some members of the Working Party expressed concern about the length of the transitional period provided for by the Association Agreement. Article 15 of this Agreement stipulated, for a number of products covering a relatively large percentage of Greek imports, 30 per cent of Greek imports from the EEC, a transitional period of twenty-two years. Doubt was expressed as to whether this could be considered a reasonable length of time for the realization of the customs union. In this regard attention was also drawn to the agricultural provisions of the Association Agreement and to the special procedures in this field.
7. The parties to the Association Agreement indicated that, in deciding on the transitional period of twenty-two years provided for in Article 15 of the Association Agreement for a number of products, account had been taken of the marked difference in the degree of development of the parties to the Agreement. The period of twenty-two years allowed for the creation of the full customs union seemed justified in the light of similar provisions contained in other regional agreements, certain of which did not seem to entail as complete an integration as did the Athens Agreement. The time period contained in this Agreement was moreover in the nature of a guarantee and strict procedures were laid down for the achievement of the customs union within this maximum time-limit. It was stated that the additional ten years in the case of certain products had been considered essential for the fulfilment of the basic aims of the Association Agreement set out in Article 2. This period of twenty-two years might be shortened and the implementation of the Agreement be accelerated as noted in Articles 16:2 and 29.
8. The parties to the Association agreed in reply to a question that procedures for the renegotiations of concessions in the Greek schedule would be laid down in due course by the CONTRACTING PARTIES under Article XXIV:6, or other provisions of the General Agreement, pointing out that the first alignment by Greece to the level of the common external tariff would be made three years after the Agreement comes into force. Greek bindings would remain in force until this first alignment. A member of the Working Party, while welcoming this, recalled that internal tariffs would be reduced before the end of the three-year period.
9. Members of the Working Party drew attention to several Articles in the Agreement of Association which might give rise to apprehension on the part of third countries although not necessarily actually contravening provisions of the GATT. It was pointed out that Article 17 did not preclude the imposition of an internal tax which was higher than the fiscal duty which it replaced. This might prejudice the interests of third countries. Members of the Working Party also pointed out that Article 18 allowed Greece in some instances to reintroduce or establish duties on imports from the EEC. A member of the Working Party, referring to Article 18:2 which provided that tariff measures taken under the Article should "not affect a total value of imports exceeding 10 per cent of Greece's imports from the Community during 1958", said that this allowed the addition to the list of any product not imported during this base period. It was possible that no imports had taken place especially when the goods concerned were already subject to a high tariff or other trade restrictions. The representative of the parties to the Association Agreement,

referring to the answer which was given to Question 17 in L/1790/Rev.1, stated that the measures taken under Article 18 could only be of a provisional nature; paragraph 4 provided for the abolition of the duties established by Greece under this Article not later than the end of the transitional period of twenty-two years laid down in Article 15.

10. In the view of some members of the Working Party some agricultural provisions i.e. Articles 35, 36, 37:2, 41, 43 and Protocols 13:3 and 16:4 gave rise to apprehensions that exceptions to the elimination of trade barriers between parties to the Association Agreement might be permitted. In this connexion members of the Working Party also expressed misgivings on the conformity of the Agreement of Association with Article XXIV:8(a)(ii). The representative of the parties to the Agreement of Association stated that such exceptions would only be temporary as under Article 33 the harmonization of the agricultural policies of the Community and Greece must be achieved not later than the end of the transitional period. Some members of the Working Party stated that while there was a schedule of twenty-two years for arriving at a full customs union in agricultural products, a concrete plan for achieving this objective, or for achieving any harmonization of agricultural policies at all until after the full twenty-two years, was lacking. The parties to the Association Agreement stated that the Athens Agreement was not as fully detailed in respect of agriculture as with regard to other items; this was due to the fact that the agricultural policy of one of the parties to the Association was still being evolved. The procedures and plan for applying the customs union to agriculture were clearly laid out in the Agreement and the parties to the Association had undertaken to set up the customs union insofar as agricultural products are concerned within a time-limit which in no case would exceed twenty-two years.

11. Some members of the Working Party felt that the non-applicability of the Association Agreement to coal and steel products left doubt as to whether "substantially all the trade" would be covered by the Association Agreement. The non-applicability of this Agreement to what is now 10 per cent of Greek imports from the European Economic Community was a matter of substance; it stretched the definition under consideration. The representative of the Community pointed out that in this type of calculation trade in both directions should be taken into account and that Greece exported no iron and steel products to the Community. The trade involved was therefore approximately 5 per cent of total trade between the Community and Greece. Moreover, these products are not covered by the Agreement simply because they fall within the scope of a separate body, the European Coal and Steel Community. The representative of Greece stated that the study of problems concerned with Greece's association with the Community were in an advanced stage and that it was the intention of his Government to enter into negotiations with that Community as soon as possible. Contracting parties would be informed if any agreement were concluded.

12. In addition Article 20:3 of the Association Agreement was referred to by members of the Working Party. The deferring of tariff reductions on goods representing not more than 5 per cent of the value of total Greek imports in

1958, while not appearing to infringe the GATT, would reduce the benefits to third countries resulting from the establishment of the customs union. The representative of the parties to the Association Agreement pointed out, however, that in general Greece would adopt the common external tariff of the European Economic Community and that therefore the solution will be a liberal one. The provision, contained in the same Article and paragraph, that Greece would be entitled to maintain, after the end of the transitional period, duties higher than those in the common external tariff on products representing not more than 3 per cent of her total imports in 1958 gave rise, among some members of the Working Party, to concern similar to that expressed on an exception made on the abolition of internal barriers to trade. Members of the Working Party expressed the hope that the differences in the duties imposed by Greece and those under the common external tariff, should Greece find it necessary to avail itself of the 3 per cent provision, would not be substantial. The view was expressed that no Article in the Association Agreement prevented the maintenance of these higher tariffs in perpetuity. The parties to the Agreement of Association pointed out that differences existed between the 3 per cent provision and the provision contained in Article 18. Imports under the present exception would in future be limited in value to 3 per cent of Greek imports in 1958 i.e. 16.8 million units of account in any one year.

13. Some members of the Working Party, reviewing the exceptions to the creation of a complete customs union which the Agreement of Association appeared to permit, held the view that while most of these taken individually could be said to be small some could be more substantial. Taken together these exceptions were of serious dimensions and gave rise in their view to doubts as to whether certain provisions of the Agreement complied with Article XXIV:3(a). It was pointed out by the parties to the Agreement that in many cases the text was not mandatory, but merely gave Greece the opportunity to adopt certain temporary safeguard measures if these became necessary in view of her economic position. This distinction should be borne in mind.

The use of quantitative restrictions

14. There was divergence of opinion in the Working Party concerning the interpretation to be given to the rights of the parties to the Association under Article XXIV in relation to the use of quantitative restrictions on imports and in particular as to whether or not the provisions of Article XXIV allowed the parties to the Athens Agreement to deviate from the provisions of Article XIII of the General Agreement.

15. Members of the Working Party which considered that the General Agreement does not permit the application of discriminatory restrictions for balance-of-payments reasons except as provided for under Article XIV, referred to provisions in the Agreement of Athens, which, if applied, would in their view, violate obligations of the parties to the General Agreement. Reference was made, in particular, to Articles 23, 25, 26, and, to the extent that it could embrace

quantitative restrictions on imports, Article 30, and to the fact that balance-of-payments restrictions applied only to third countries would not effectively serve their purpose particularly in the present circumstances of external convertibility of currencies.

16. The parties to the Association held the view that Article XXIV of the General Agreement imposed an obligation on the member countries of a customs union to eliminate, in so far as possible, quantitative restrictions existing between them without necessarily extending such elimination to countries which are not members of the union. They, therefore, considered that the stipulations of the Agreement, providing for the complete elimination of quantitative restrictions on trade between the partners of the Association, were fully consistent with the General Agreement. In respect of trade with third countries, the Association Agreement did not stipulate the elimination of restrictions but the parties to the Association stated that it was certainly their intention to continue their liberal commercial policies in this respect.

17. As the issue is one that the Athens Agreement raises in common with the Rome Treaty and the Stockholm Convention and the different views are well known to the CONTRACTING PARTIES (BISD 6th Supplement, pages 76 to 81 for the Rome Treaty; BISD, 9th Supplement, pages 75 to 78 for EFTA), members of the Working Party did not go further in the examination of the principles involved.

Bilateral agreements

18. Article 21 permits Greece to grant tariff quotas to facilitate imports of certain articles from countries with which she has or may in the future have bilateral agreements, if the operation of these agreements is substantially affected by the operation of the provisions of the Agreement of Athens. Some members of the Working Party considered that, unless Greece is prepared to administer any such tariff quotas non-discriminatorily in accordance with Article XIII:2(d), she will be in violation of the provisions of Article I of the GATT.

19. It was the view of the parties to the Association Agreement that the purpose of Article 21 was to provide a limited exception, in particular cases, to the full application by Greece of the duties applied during the transitional period and those provided for in the common customs tariff of the Association and that this possibility could not be considered a violation of the General Agreement. Any problems which might arise in connexion with the opening of tariff quotas would be settled in conformity with the provisions of the General Agreement. Moreover the General Agreement provided for some exceptions, for instance in Article XIV.

State trading

20. Some members of the Working Party raised doubts about the compatibility with GATT of the provisions in paragraph 4 of Protocol 15. The GATT requires in Article XVII that State-trading enterprises should act solely in accordance with commercial considerations. These members felt that commitments to purchase fixed annual quantities of tobacco from Greece, as is the case here, might constitute a violation of obligations under Article XVII in that unforeseeable future commercial considerations were being arbitrarily set aside in favour of a firm commitment to buy certain quantities. Furthermore the action would impair the benefits a country had obtained under Article II in the form of a binding of the duty on tobacco by the Community. Insofar as long-term contracts might operate to restrict purchases from third countries, some members of the Working Party believed that this provision would raise new barriers to the trade of third countries in contravention of Article XXIV:4.

21. In replying to these observations, the parties to the Association called attention to the fact that the purchasing commitment had been fixed at the average level of three recent representative years. These commitments had been entered into by Governments - not by the State monopolies themselves - and these Governments would be in a position to modify their commercial policies in a way to allow the monopolies to purchase the quantities foreseen under commercial considerations. The Governments could, for example, accelerate the reduction of duties on Greek tobacco. It was in any case to be expected that the constantly increasing demand would result in commercial purchases of greater quantities than those stipulated in the Association Agreement. In the opinion of the parties to the Association, the provisions of the Athens Agreement regarding State trading did not conflict with Article XVII of the General Agreement and conformed with the statement of principle laid down in Article XXIV:4.

Protocol 11

22. Some members of the Working Party believed that elimination of the prior deposit requirement by Greece as provided for in Protocol 11 would introduce a new element of discrimination against third countries if the elimination was confined to imports from the Community. To the extent that such deposits constituted a barrier to imports imposed to protect Greece's balance of payments, they believed that the principles discussed in relation to quantitative restrictions were also applicable to this case. The representative of Greece pointed out that, in view of its purpose which was to ease inflationary pressures, the system was applied non-discriminatorily.

Territorial application

23. The observer for Czechoslovakia drew the attention of the Working Party to the fact that the Agreement submitted to the CONTRACTING PARTIES contains certain references to German Territory. His delegation felt that the CONTRACTING PARTIES should not pass judgement on these references because in the opinion of his delegation they were not competent to deal with these questions.

24. The representatives of the parties to the Association stated that the Rome Treaty already contained the references mentioned by the representative of Czechoslovakia and as a consequence these references were also included in the Association Agreement.

25. The Working Party took note of both statements and considered that the examination of the Association Agreement did not call for an expression of views on these questions by the Working Party.

Agricultural provisions

26. Members of the Working Party indicated that it would for the time being be difficult to make substantive comments on the agricultural provisions of the Agreement of Association. The hope was expressed that it would be the intention of Greece and the EEC to take part in consultations under Committee II on the agricultural provisions of the Agreement of Association. The parties to the Association Agreement confirmed that the abolition of restrictions on trade between the Community and Greece and the introduction by Greece of the common customs tariff must be achieved on agricultural as well as on other products not later than the end of the transitional period of twenty-two years referred to in Article 15. Article 35, which provides that Greece must declare its readiness to undertake harmonization before the conditions governing such action are established, should not, therefore be construed as permitting exceptions to this rule. Members of the Working Party drew attention to provisions of the Agreement of Association which would seem to permit further exceptions. Certain of these are discussed elsewhere in this report.

27. It was felt by some delegations that Protocol 10 gave Greece the possibility of blocking the reduction of the duties in the Common External Tariff of the Community on tobacco, raisins, olives, colophony and turpentine essences. While it was perhaps, difficult to quote any specific provision in the GATT in this instance, the Protocol did, in their view, run counter to the spirit of Article XXVIII bis, which could not be reconciled with what amounted to a binding of a duty against reduction.

28. The parties to the Association did not see how there could be misgivings about the contents of this Protocol. What one could normally have expected to be the rule in any customs union - i.e. the prior approval by all parties to modify the tariff of the union - had indeed been made the exception in the Agreement of Association. The Government of Greece had in fact only retained

the right to intervene in the fixing of the common tariff for five products covering 60 per cent of its exports. They pointed out that the Protocol did not exclude the possibility of duty reductions on these products and consequently this Protocol did not go against the provisions of Article XXVIII bis: what was stipulated was that any reduction above stipulated levels during the transitional period required the prior approval of the Association Council. Greece, as a member of the Council of the Association could defend its own case.

29. Some members did not feel that they could accept the principle underlying Protocol 10.

30. Attention was drawn to the provisions of Protocol 16, paragraph 4 which specifically discusses action to be taken if Greece is unable to harmonize its policy with the common agricultural policy for tobacco. The parties to the Association Agreement pointed out that the aim of this Protocol was the harmonization of policies. Paragraph 4 provides for the possibility that this objective might not be realized and foresees that "Greece shall maintain, in an appropriate form, a volume of imports into the Community equal to that which it has achieved at the present time. The amount of the increase intended to ensure the expansion of imports of Greek tobacco shall be determined by the Association Council". In establishing a decision the Council of Association would take international obligations into account.

Conclusions

31. Members of the Working Party expressed their sympathy with the need for the economic development of Greece and their belief that the objectives of the Association Agreement as stated in Article 2 accord with the general objectives of the GATT. Members of the Working Party expressed the hope that the Association Agreement will provide opportunities for the expansion of the export trade of other development countries also.

32. However, some members of the Working Party believed that certain provisions of the Association Agreement could lead to infringements of GATT. It was in the interest of all that the Association Agreement should not do violence to the rules of GATT. Several members of the Working Party pointed out that this was the first Agreement for association with the European Economic Community to be considered by the CONTRACTING PARTIES and it therefore would be of special interest to the CONTRACTING PARTIES. The Working Party stressed that the sum of the conditions prevailing in Greece was unique to Greece and that the present Agreement is not a precedent for possible future association agreements between other countries and the European Economic Community. The Working Party considered that in any event, because of differing economic factors, each agreement for association would have to be considered, in the context of the GATT, entirely on its own merits. Thus in the present examination some of the reservations put forward were peculiar to the present text while others were of the same nature as those made in the case of earlier integration agreements.

33. The parties to the Association Agreement stressed the liberal character of its terms which they were convinced would promote the expansion and development of the Greek economy, would further its trade, not only with the member States of the Community, but also with other contracting parties. They did not consider that they were infringing rules of GATT which they had taken care to respect in the letter and the spirit. It should be noted that the tariff provisions in the Agreement did not set the pattern for any future association agreements entered into by the European Economic Community, whether with countries having tariffs higher than the common external tariff or lower. As to the Agreement as a whole and its aims, they were satisfied that they conformed fully with paragraphs 5-9 of Article XXIV and that they were entitled under paragraph 5 of Article XXIV to deviate from the provisions of the GATT to the extent necessary to permit the establishment of the customs union provided for in the Association Agreement.

34. The Working Party considers that the discussion has provided clarification of the principal aspects of the Association Agreement in relation to the provisions of the General Agreement. As indicated in the preceding paragraphs the discussion brought out several important issues on which substantial differences of opinion exist among members of the Working Party - of these, some are legal, some are practical issues. With respect to some provisions of the Association Agreement it is not possible, in the view of some members, to foresee at the present stage what practical measures will result from them.

35. For the above reasons the Working Party considers it more appropriate to confine its report to recording the information, arguments and clarifications which have been put forward so that governments may be given an opportunity to consider the matter fully. The Working Party accordingly recommends that the CONTRACTING PARTIES should in the light of this consideration examine the Agreement for the Association of Greece with the European Economic Community at their twentieth session.