

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/4024

2 May 1974.

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Original: English/French

## AGREEMENTS BETWEEN THE EUROPEAN COMMUNITIES AND FINLAND

### Questions and Replies

1. The contracting parties were invited (documents C/M/92 and GATT/AIR/1058) to communicate to the secretariat any questions they might wish to put concerning the Agreements between the European Communities and Finland.<sup>1</sup>
2. In response to that request, a number of questions were received and were transmitted to the parties to the Agreements. The questions and the parties' replies are reproduced below.

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<sup>1</sup>L/3973 and Corr.1

## I. GENERAL QUESTIONS

1. Is it the intention of the parties to these Agreements to achieve a free-trade area as defined in Article XXIV, paragraphs 5 through 9 of the General Agreement?

### Reply

Yes, see in particular the second preambular paragraph of the Agreement.

2. Is the Agreement notified as an interim agreement leading to the establishment of a free-trade area consistent with GATT Article XXIV?

### Reply

No. The objective of the Agreement is to establish a free-trade area. The Agreement states clearly the methods and the time-table for eliminating tariffs and other restrictions on substantially all the trade. The Agreement therefore fulfils, both with regard to its objective and its provisions, all the conditions of an agreement concluded for the establishment of a free-trade area under paragraph 5 of Article XXIV.

## II. TRADE COVERAGE OF THE AGREEMENTS

(For the replies to questions No. 3-9 see statistical Annex.)

3. What was the total value of imports by the EC of Nine from Finland for each of the three most recent years for which trade statistics are available? What are the comparable figures for imports of Finland from the EC?

4. What value and percentage of these imports are (1) industrial products and (2) agricultural products?

5. What value and percentage of (1) imported industrial products and (2) imported agricultural products will be free to enter the EC from Finland and free to enter Finland from the EC without payment of duties or subject to other restrictive regulations of commerce?

6. What value and percentage of trade between the EC and Finland will not be free from duties and other restrictive regulations of commerce under the provisions of the Agreements?

7. What value and percentage of trade remains subject to a variable levy or to a variable component?

8. What value and percentage of total imports from EC to Finland and from Finland to EC are covered by Annex I (products excluded from free trade)?

9. What percentage of total trade between the signatories to the Agreement is covered by:

- (a) Article 2(1)
- (b) Protocol No. 1
- (c) Protocol No. 2

### III. IMPORT AND EXPORT DUTIES

10. Would Finland submit a list of all customs duties containing a fiscal element and a list of all products on which a fiscal element applies?

#### Reply

On products covered by the Agreement Finland is not any longer maintaining any duties of a fiscal nature. The duties on the following products falling under the Agreement were prior to 1 January 1974, regarded as fiscal:

#### Description of goods

- ex 22.09      Spirits (other than those under heading No. 22.08): liqueurs and other spirituous beverages: compound alcoholic preparations (known as "concentrated extracts") for the manufacture of beverages:
  - liqueurs, bitters, punch and like beverages, containing eggs or egg yolk and/or sugar (sucrose or inverted sugar)
- ex 27.10      Gasoline
  - for aircraft motors
  - for other internal combustion engines
  - other
- ex 87.09      Motor-cycles, with or without sidecars, sidecars of all kinds

11. On which products and to what extent does Finland intend to replace customs duties in part or in whole by internal taxes?

#### Reply

The fiscal duty on ex 27.10 "Gasoline for other internal combustion engines" has been replaced by an internal tax.

Reply

None.

13. What charges having an effect equivalent to customs duties are in effect and were introduced prior to 1 January 1972?

Reply

None.

IV. QUANTITATIVE RESTRICTIONS

14. Will quantitative restrictions and measures of equivalent effect which are to be abolished under Article 13 be eliminated on a most-favoured-nation basis?

Reply

The abolition of quantitative restrictions, where they exist, is covered by the provisions of Article XXIV on the establishment of free-trade areas.

V. AGRICULTURE

15. How are the provisions of Protocol No. 2 justified in terms of the provisions of Article 15, paragraph 1?

Reply

The free trade established by the Agreement does not extend to agricultural products. However Article 15 lays down general principles with regard to the development of trade in agricultural products between the parties; Protocol No. 2 establishes the specific arrangements applicable to a category of products incorporating an agricultural component. The modalities applicable to products listed in this Protocol are designed to eliminate the industrial element of protection and to exclude the agricultural component from the import and export régimes for the said products within the field of application of the Agreement.

16. In respect of certain products, Protocol No. 2 to the Agreements provides either for the reduction of duties, or in the case of items subject to both fixed amounts and variable components, reduction/elimination of the former and retention of the latter. Since there is no indication that the fixed amounts or the variable components will eventually be eliminated, this Protocol appears to create new preferences. The signatories are requested to advise whether this

is the case and if so, how they envisage bringing the Protocol into conformity with the relevant provisions of GATT.

Reply

Since the Agreement provides for the elimination of the industrial protection, there is in the case of Protocol No. 2 no question of creating new preferences but only of maintaining the element of agricultural protection of the import régime through either fixed amounts or variable components.

17. With respect to the items listed in Protocol No. 2 which will continue to be subject to a variable import levy, will this levy be determined and applied in any way differently for imports from Finland than for imports from third countries?

Reply

The calculation and the application of the variable levies on the agricultural element in the products concerned are the same for imports from all countries.

18. Does Article 1 of Protocol No. 2 mean that Finland may introduce variable levies on the agricultural component imports of products listed in Protocol No. 2? If so, will levies be determined and applied in any way differently for imports from the EC than for imports from third countries?

Reply

First part of the question: Yes. Second part: No.

19. Is it correct that in addition to the undertakings reached in the Agreement further exchanges of letters have taken place which provide for additional undertakings for trade in agricultural products?

Reply

Yes. See reply to the following question.

20. Do these exchanges of letters provide for concessions on products falling within BTN 1-24? If so, and given that the Agreement covers only BTN 25-99, does not this constitute establishment of new preferences?

Reply

The exchange of letters is concerned with the beef sector. Its provisions do not provide for the establishment of new preferences.

21. Given that many goods falling within BTN 1-24 would include materials or components falling within BTN 25-99, what was the basis on which the goods specified in the tables attached to Protocol No. 2 were selected? Why were not other agricultural goods with an industrial component included?

Reply

The products listed in the tables annexed to Protocol No. 2 are those for which it is possible, within the Community regulations, to distinguish between the industrial and agricultural elements of protection. In addition, some products have been added to take into account certain interests of the contracting parties.

Other products of Chapters 1 to 24 involving an industrial component have not been included in Protocol No. 2 because until now, the contracting parties have not been able to envisage any tariff reduction without putting in question their interests in the agricultural field.

22. What was the basis on which the parties to the Agreement determined that the rates in the tables to Protocol No. 2 which will apply on 1 July 1977 "maintain the present situation in the agricultural raw material sector?". Please illustrate by reference to CCT heading numbers 21.04B, 22.03, 29.43B, 35.01B (Table 1).

Reply

In accordance with Article 1 of Protocol No. 2, the contracting parties are authorized to collect variable components on importation, so as to take into account differences in costs of agricultural products incorporated in the goods shown in the tables annexed to Protocol No. 2. As far as the EEC is concerned, the variable components are calculated every quarter in relation to the prices of the primary products laid down in the framework of the common agricultural policy.

As far as, among others, headings 21.04B, 22.03, 29.43B and 35.01B of the CCT are concerned, a fixed component has been kept which should cover the differences in costs of the agricultural products included in these goods.

23. Are the principles of selection about which information is sought in questions 21 and 22 above compatible with the provisions of Article 5 of Protocol No. 3 of the Agreement?

Reply

There is no connexion between these principles of selection and Article 5 of Protocol No. 3.

24. Protocol No. 2 provides for the customs treatment of certain processed foodstuffs. Protective duties on the industrial element are to be removed while the protection is to remain for the agricultural element. Which products in BTN Chapters 1-24 do the European Communities and Finland contemplate adding to Protocol No. 2 of the Agreement?

Reply

None at this stage. See Article 3 of Protocol No. 2.

VI. OTHER QUESTIONS

25. Since the criteria governing the implementation of safeguards are very broadly defined, thereby rendering it virtually impossible to anticipate how the provisions would be implemented, how is the Working Party to make a judgement as to whether free trade is actually intended?

Reply

The provisions of Articles 23 to 26 are justified by the necessity to correct serious difficulties due to distortions of competition, tariff disparities, dumping practices, or sectorial or regional disturbances, which might occur under the free-trade régime created by the Agreement. The use of safeguard measures in exceptional circumstances on a temporary basis and in the last resort does not affect the determination of the parties to apply the Agreement in conformity with Article XXIV and with their obligations under the General Agreement. Article 28 determines the procedure between the parties to the Agreement in their reciprocal relations in the case of difficulties or serious threats of difficulties in the balance of payments. The parties to the Agreement are, however, still committed by the relevant provisions of the General Agreement and their other international obligations in this matter.

26. How do the parties to the Agreement justify incorporation of rules of origin more restrictive than those contained in the original Association Agreement between Finland and EFTA?

Reply

The parties to the Agreement do subscribe neither to the assumption that the rules of origin of Protocol No. 3 of their Agreement are more restrictive than those of the EFTA Convention, nor to the assumption that they will cause trade impairment to third countries.

27. How do the parties intend to deal with trade impairment to third countries resulting from restrictive features of the rules of origin?

Reply

See reply to question No. 26.

Additional questions

III. IMPORT AND EXPORT DUTIES

1. Give the trade value for the last three years for each of the products on which customs duties of a fiscal nature referred to in paragraph 1 of Article 4 are imposed in Finland.

Reply

See Part III of Annex.

2. Will not the fact that the tariff disparities mentioned in Article 24.2 may give rise to the compensatory charges provided for in Article 27.3(b) inhibit parties from reducing tariffs on a most-favoured-nation basis and will this not reduce the freedom of action of either of the parties in making an offer to lower or eliminate tariffs on certain products in the course of the upcoming multilateral trade negotiations?

Reply

No. In the event that tariffs are lowered during the negotiations, the effects on the disparities mentioned will be positive.

IV. QUANTITATIVE RESTRICTIONS

3. Are any products exempt from the provisions of paragraph 2 of Article 13? If so, list these products and give the trade value of each of them for the last three years.

Reply

For Finland, the products in question are listed in Protocol No. 5 to the Agreement. (See Part III of Annex.)

For the Community there are no products exempt from the provisions of paragraph 2 of Article 13.

V. AGRICULTURE

4. Do the conditions of Article 9 and Protocol No. 2 imply that any improvement in terms of access for agricultural products into Finland would probably result in an increase in variable levies or customs duties upon import into the European Economic Community from Finland of agricultural products? Would this



not discourage the further liberalization on a most-favoured-nation basis by Finland in the agricultural sector?

Reply

No.

## VI. OTHER QUESTIONS

5. It is established by List B of Protocol No. 3 that incorporation of non-originating materials and parts in products falling under BTN Chapters 84 to 92 and in boilers and radiators of BTN heading No. 73.37 does not make such products lose their status of originating products, provided that the value of non-originating materials and parts used does not exceed 5 per cent of the value of the finished product. What is the basis for this rule of 5 per cent?

Reply

This rule contributes to the facilitation of the controls and is not of a nature to modify either the character of the products wholly produced or the importance of the working and processing already undergone by the products in question which have contributed to conferring on these products their originating status.

6. As regards the products falling under BTN Chapters 25 to 99, are the parties to the Agreements prepared to inform the GATT annually of the import value under each tariff heading for originating products (i.e. the products to which the Agreement apply) and for non-originating products as defined by the origin rules of the Agreements?

Reply

The parties to the Agreement are not in possession of data as specific as that requested.

7. Would it be correct to assume that the public aids referred to in Article 23.1(iii) as being incompatible with the proper functioning of the Agreement include those measures prohibited under Article 13 of the EFTA Convention as listed in Annex C to that document? If so, does this prohibition apply to exports to all contracting parties and to exports of the products listed in Protocol No. 2? If not, does this prohibition still apply to trade between Finland and other EFTA countries?

Reply

The provisions of this Agreement are autonomous and do not depend on the EFTA Convention.

8. In the event that one of the parties to the Agreement is faced with sectoral or regional difficulties (Article 26 of the Agreement) and is obliged to invoke Article 27 of the Agreement, what assurance is there for third countries that the safeguard measures provided under that Article and likewise action to which the affected party may have recourse under Article XIX of the General Agreement, will not oblige third parties to share in the cost of this deterioration, to the extent that they are not responsible for it?

Reply

No measure taken under Article 27 of the Agreement could apply to third countries unless the provisions of Article XIX are observed.

9. Would measures introduced to offset difficulties arising as a result of the elimination of barriers to trade, under this Agreement be applied to imports from third countries?

Reply

In principle, Article 27 concerns bilateral measures.

10. Considering that several countries have expressed concern over the possible trade restrictive effects of the new rules of origin, what provision has been made for third country representations in periodic reviews of the rules of origin?

Reply

The Agreement does not provide for any periodic reviews of the rules of origin. In the event that it becomes necessary to re-examine certain rules, the parties to the Agreement will be prepared to take account of any impact on third country trade.

11. If it is determined that the rules of origin will result in prejudicial effects to the trade interests of third countries, will there be provision for modifications in these rules?

Reply

If the prejudicial effects mentioned should develop, the problem would be examined by the parties to the Agreement which could together decide what action should be taken.

12. Regarding Protocol No. 3, could Finland be explicit as to what specific provisions of the new rules of origin will make it more difficult for Finnish firms to use raw materials and components procured outside Western Europe

(particularly in chemicals and mechanical engineering, textiles, copper and automotive products industries) and why?

Reply

..... The question of the percentages of raw materials and semi-manufactures imported from third countries by the parties to the Agreement was taken into consideration when the rules of origin were established. The new rules of origin must be considered as a whole. Any comparison between the rules of origin system established by the Agreement and the rules of origin under the system previously in force within EFTA would not, from a technical point of view, yield much information nor would it be relevant in the present situation, on the one hand, because of the continuing diversification and changes in the production processes of various industries, and on the other hand, because of the different circumstances in which the two systems operate.

STATISTICAL ANNEX

Part I: Statistics Supplied by the Community  
(Trade coverage of the Agreement)

	<u>Average 1970/71</u>	
	<u>\$ million</u>	<u>% of total imports</u>
<u>Reply to question 3</u>		
Total imports by the Community from Finland.	1,222	100
<u>Reply to question 4</u>		
Industrial products	1,180	97
Agricultural products	42	3
<u>Reply to question 5</u>		
Industrial products ) free from duties	1,180	97
Agricultural products)	0.08	-
<u>Reply to question 6</u>		
Products which will not be free from duties and other restrictive regulation of commerce	2.9	0.2
<u>Reply to question 7</u>		
Products subject to a variable levy or to a variable component	38	3
<u>Reply to question 8</u>		
Products covered by Annex I (\$2,000)	-	-
<u>Reply to question 9</u>		
Percentage of total trade covered by:		
(a) Article 2(1)	-	97
(b) Protocol No. 1	-	31
(c) Protocol No. 2	-	0.2

Part II: Statistics Supplied by Finland<sup>1</sup>  
(Trade Coverage of the Agreements)

Question 3

Finland's total imports (in US\$ million) from the EC of Nine

<u>1971</u>	<u>1972</u>	<u>1973</u>
1,206.9	1,334.4	1,771.8

Question 4

Finland's total imports from the EC of Nine

	<u>1971</u>		<u>1972</u>		<u>1973</u>	
	<u>\$ million</u>	<u>£</u>	<u>\$ million</u>	<u>£</u>	<u>\$ million</u>	<u>£</u>
Chapters 1 to 24	55.5	4.6	65.7	4.9	101.0	5.7
Chapters 25 to 99	1,151.4	95.4	1,268.7	95.1	1,670.8	94.3

Question 5

Finland's imports (in US\$ million) from the EC of Nine

	<u>1971</u>		<u>1972</u>		<u>1973</u>	
	<u>\$ million</u>	<u>£</u>	<u>\$ million</u>	<u>£</u>	<u>\$ million</u>	<u>£</u>
Chapters 1 to 24						
Free of duty	20.0	36.0	23.4	35.6	38.7	38.3
Reduced duties	0.0	0.0	0.0	0.0	0.0	0.0
Chapters 25 to 99						
Free of duty	1,150.8	99.9	1,268.1	100.0	1,669.8	99.9
Reduced duties	0.0	0.0	0.0	0.0	0.0	0.0

<sup>1</sup>The following rates of exchange have been used (Fmk/US\$)  
1971: 4,174    1972: 4,146    1973: 3,816

Question 6

Finland's imports from the EC of Nine

	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>
	in \$ million			in per cent of total		
Chapters						
1 to 24	35.5	42.3	62.3	2.9	3.2	3.5
Chapters						
25 to 99	0.6	0.6	1.0	0.1	0.0	0.1

Question 7

Finland's imports from the EC of Nine of goods subject to levies

	<u>1971</u>	<u>1972</u>	<u>1973</u>
in million	4.3	4.9	5.1
in percentage	0.4	0.4	0.3

Question 8

Finland's imports from the EC of Nine of goods covered by the Annex  
(products excluded from free trade)

	<u>1971</u>	<u>1972</u>	<u>1973</u>
in million	0.6	0.6	1.0
in percentage	0.1	0.0	0.1

Question 9

Table

Finland's imports from the EC of Nine

	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>
	in \$ million			as percentage of total imports		
1. Goods with a tariff 863.7 dismantlement period of $3\frac{1}{2}$ years		969.5	1,262.5	71.6	72.7	71.2
2. Goods with a tariff dis- mantlement period of 7 to 11 years	307.1	322.0	446.0	25.4	24.1	25.2
3. Total (1 + 2) of which	1,170.8	1,291.5	1,708.5	97.0	96.8	96.4
- goods covered by Protocol No. 2	20.0	23.4	38.7	1.7	1.8	2.2
- industrial products Chapters 25 to 99	1,150.8	1,268.1	1,669.8	95.3	95.0	94.2

Part III: Statistics for the Replies to the Additional  
Questions No. 1 and No. 3

Reply to additional question 1

Trade value for the products on which customs duties of a fiscal nature were imposed in Finland prior to 1 January 1974:

BTN	Description of goods	Trade value in \$'000		
		1971	1972	1973
ex 22.09	Spirits (other than those under heading no. 22.08), liqueurs and other spirituous beverages; compound alcoholic preparations (known as "concentrated extracts") for the manufacture of beverages:			
	- liqueurs, bitters, punch and like beverages, containing eggs or egg yolk and/or sugar (sucrose or inverted sugar)	576	644	701
ex 27.10	Gasoline			
	- for aircraft motors	1,097	421	718
	- for other internal combustion engines	-	-	1,384
	- other	1,268	212	489
ex 87.09	Motor-cycles, with or without sidecars, sidecars of all kinds	157	291	435



Reply to additional question 3

Finnish imports from the EEC of products exempted from the provisions of paragraph 2 of Article 13

BTN	Description of goods	Trade value in \$'000		
		1971	1972	1973
25.10	Natural calcium phosphates, natural aluminium calcium phosphates, apatite and phosphatic chalk	-	-	-
27.06	Tar distilled from coal, from lignite or from peat, and other mineral tars, including partially distilled tars and blends of pitch with creosote oils or with other coal tar distillation products	20	25	31
27.07	Oils and other products of the distillation of high temperature coal tar, similar products	109	184	145
27.09	Petroleum oils and oils obtained from bituminous minerals, crude	-	-	-
27.10	Petroleum oils and oils obtained from bituminous minerals, other than crude, preparations not elsewhere specified or included containing not less than 70 per cent by weight of petroleum oils or oils obtained from bituminous minerals, these oils being the basic constituents of the preparations	9,655	17,914	17,957
27.14	Petroleum bitumen, petroleum coke and other residuus of petroleum oils or of oils obtained from bituminous minerals	1,497	1,560	1,343
27.15	Bitumen and asphalt, natural bituminous shale, asphaltic rock and tar sands	35	11	1
27.16	Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (for example bituminous mastics, cut-backs)	246	349	485
ex 31.03	Mineral or chemical fertilizers phosphatic excluding basic slag	44	-	86
31.04	Mineral or chemical fertilizers potassic	3,575	3,873	7,697