

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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PANEL ON COMPLAINTS

Belgian Allocation Familiales

Joint Memorandum submitted by the Danish and Norwegian Delegations

1. By virtue of an Act of 4 August 1930, a system providing for family allowances to workers is in force in Belgium. The system is, to a large extent, financed by contributions imposed upon the Belgian employers, and in order to countervail these contributions a varying special tax, at present 7.5 per cent ad valorem, is levied on products imported by the Belgian governmental, provincial and municipal authorities, etc.

According to Article 132 of the said Act, the Belgian Minister of Labour acting upon the advice from the "Commission des allocations familiales" is authorized to exempt from this charge products originating in countries where employers are obliged to contribute to social insurance schemes to at least the same extent as employers in Belgium.

Such exemptions have been granted to a number of countries, including, (if our information is correct), France, Italy, Netherlands, Sweden, and the United Kingdom. Exemptions have been granted both before and after Belgium's accession to the GATT.

2. The Danish and Norwegian Governments maintain that the Danish and the Norwegian employers contribute to social insurance schemes to at least the same extent as employers in the above mentioned countries. Accordingly, with reference to Article I of the General Agreement, they have requested from the Belgian Government an exemption from the said tax which has had a detrimental effect on the two countries' competitive position in several cases, as far as Denmark is concerned, for instance, in connection with importation into Belgium of non-ferrous metals, electrical appliances and granite products, and as far as Norway is concerned, especially in connection with the importation into Belgium of paving stone.

All attempts by the two Governments to obtain an exemption from the tax have been in vain.

3. In his statement at the plenary meeting of the CONTRACTING PARTIES on 29 October 1952, the Belgian representative - without, however, drawing the conclusion that the Danish and Norwegian representations should, for this reason, be rejected - drew the attention to the interpretative note to Article I, according to which the obligations under GATT in this respect are subject to the rule of provisional application.

N.B. This is a preliminary note submitted at the request of the secretariat and should in no way be considered as a finalized "statement of complaint" from the Danish and the Norwegian Delegations.

Reserving its position on the question whether the said tax could rightly be considered belonging to those categories of charges which are incorporated in Article I only by reference to Article III paragraphs 2 and 4, the Danish and the Norwegian Delegations are of the opinion that the reference by the Belgian Delegation to the interpretative note is in all events irrelevant, considering the fact that the rule of provisional application provides that a contracting party shall apply Part II of the General Agreement to the fullest extent not inconsistent with its legislation existing on the date of the relevant protocol of accession and that, as mentioned above, the act in question gives the Minister of Labour the right to grant exemptions, and that, furthermore, at least in one case exemption has been granted to a country after the date of Belgium's accession to GATT.

4. The Belgian representative, furthermore, in his statement on 29 October informed the CONTRACTING PARTIES that the above-mentioned "Commission des allocations familiales" had advised the Minister of Labour that in its opinion Denmark and Norway did not fulfil the conditions for exemption.

This, again, in the opinion of the Danish and the Norwegian Delegations is irrelevant, the fact being that the Minister of Labour is not bound by the advice from the Commission and that, if we are rightly informed, in the case mentioned above where a country was exempted after Belgium's accession to GATT, the Minister actually acted against the advice from the Commission.

This last fact, if true, may be of some interest in this connection to the extent that it is the feeling of the Danish and the Norwegian Delegations that the exemption for the country in question was not based on a disagreement with the Commission but rather on the fact that the country in question was in a good bargaining position in connection with simultaneous bilateral discussions on commercial matters. If the discriminatory application by the Belgian Government of the tax is thus founded principally on commercial policy interests it is clearly a practice of a kind the prevention of which is the very aim of the most-favoured-nation clause.

5. The Danish and the Norwegian Delegations feel that the above should be sufficient to justify our claim but they reserve their rights to introduce further documentation. To demonstrate the financial importance of this question to the Belgian Government it might, however, be worth mentioning that the revenue to be expected by Belgium by maintaining the application of the tax on imports from Denmark may be estimated at about 0.008 per cent of the total expenses in connection with the family allowance system, and about 0.01 per cent of the governmental subsidies to this system. The corresponding figures for Norway are of a similar magnitude.

