GENERAL AGREEMENT ON TARIFFS AND TRADE

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PANEL ON COMPLAINTS

Belgian allocations familiales

Memorandum by the Austrian Delegation

At the 21st meeting of the Sixth Session of the CONTRACTING PARTIES, the Austrian Delegation supported the complaints submitted by Denmark and Norway with regard to the levying of the "familly allowance tax" on the grounds that it constituted a serious handicap to Austrian exports to Belgium. The question was subsequently brought to the attention of the Belgian Government through diplomatic channels and in the course of trade negotiations between Austria and the Belgo-Luxembourg Economic Union on 11 July 1952.

The Belgian Law on Family Allowances of 4 August 1930 recognised two criteria for the imposition of the tax:

(1) It is applied "when the State, a province or commune* purchases, whether tenders have been invited or not, goods produced by a country where the heads of undertakings are not bound by a general law to pay contributions towards the payment of family allowances to the members of their staff" (Article 130, paragraph 1);

(2) It "applies to all industrial or agricultural commodities except those not produced in Belgium" (Article 130, paragraph 2).

Ad (1): In Austrian law there is an institution analogous to family allowances entitled "Kinderbeihilfengesetz" (Children's Allowances Act), promulgated by the Federal Law of 16 December 1949 (Bundesgesetzblatt No. 31/50), together with its successive amendments and in particular that of 25 July 1951 (Bundesgesetzblatt No. 161/51). In addition to the charges borne in Austria by heads of undertakings and by wage-earners in the form of contributions to a highly developed system of social security, under the above-mentioned law employers are obliged to contribute the equivalent of 6% of their wages bill to the Children's Allowance Fund. This contribution is a burden at least as heavy as similar burdens imposed upon their Belgian counterparts. Furthermore, under Austrian law, the State is required to make up any deficit in the fund in question.

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* cf. Art. 138, points a - g, which considerably extends the range of purchasers to which the provisions of the law apply,

Ad (2): The stipulation that the law in question shall apply solely to goods which are also produced in Belgium establishes a protective measure which, though it may not have been so intended by the legislature, is, in the opinion of the Austrian Delegation, incompatible with the provisions of Article 3, paragraphs 1 and 2 of the General Agreement. The levying of the tax complained of thus constitutes an additional burden imposed on products of foreign origin imported into Belgium for account of the State, a province or a commune and hence alters the normal conditions of competition between Belgian and foreign producers to the detriment of the latter.

As regards the practical effects of the levying of the tax, it may be mentioned that it affects the following Austrian exports in particular:

Special steels

Microscopes

Heraclite boards (boards made of wooden chips or shavings impregnated with magnesite and bound together with mortar).

The industries concerned and some machine producing industries have brought to the attention of the competent Austrian authorities particular cases in which the levying of the tax constituted an insuperable obstacle to exports to Belgium, a country which has been traditionally an important export market for Austria.

The Austrian Delegation is not in a position to assess the exact amount of the damage caused not only to Austrian exports but to the Austro-Belgian balance-of-payments position, since a large number of transactions have been killed by the tax and many Austrian exporters who would otherwise be interested in Belgian orders refrain from quoting prices because they know that the family allowances tax will be added on. In any case, the losses thus incurred run into millions of Belgian francs.