

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Working Party 3 on the European Coal
and Steel Community

EUROPEAN COAL AND STEEL COMMUNITY

Proposed Amendments to Document W.9/36

I. INTRODUCTION

Paragraph 2

The second sentence (lines 10 to 15) should end with the word "lines".
It should therefore read: "The Working Party tried this year to conduct
its business along the same lines."

Paragraph 3

Line 3

Insert after the words "member States" the words "in application of the
Treaty".

II. MEASURES TAKEN PURSUANT TO THE DECISION OF 10 NOVEMBER 1952

Paragraph 4

The first sentence and the third sentence (line 4) should begin with
the words: "In application of the Treaty and ..."
The fourth sentence (line 7) should begin with the words: "Always in
application of the Treaty and"

Paragraph 5

First proposal: delete last sentence.

Alternative proposal: change last sentence to read: "No further action
has been taken during the period under review in connection with coal and
steel products."

Paragraph 6

Line 6

Replace the words "... arrangements are made for increasing these quotas, if necessary," by "... these quotas would eventually be increased ..."

Line 9

Replace the word "fixed" by "indicated".

III. OTHER MEASURES TAKEN BY THE MEMBER STATES AND BY THE COMMUNITY IN THE FIELD OF COMMERCIAL POLICY

(The words "... by member States and by the ..." have been added to the above title.)

Paragraph 10

In the first sentence delete the words "other aspects of the commercial policy of the Community, and, in particular, ..." and insert "... by the member States and the Community ..." after the word "account" (line 4).

The first sentence should therefore read:

"As indicated in paragraph 2 above, the Working Party had had the opportunity of discussing the extent to which the interests of third countries were taken into account by the member States and the Community during the period under review".

Paragraph 12

Line 9

Replace the word "for" by "to facilitate".

Line 11

Replace the word "conviction" by "hope".

Paragraph 13

Line 1

Replace the word "agreed" by "have announced their readiness"

Paragraph 14

Line 3

Insert the words "partly or wholly" after "continued".

Lines 8 - 10

The penultimate sentence should be amended to read:

"France and Germany have agreed to levy duties at a common level generally lower than the legal rates. In addition, Germany has lowered its legal rates to a level which, generally speaking, corresponds to the French legal rates."

Line 10

Insert after "tariff quotas" the phrase "under paragraph 15 of the Convention, as they had already done for steel (see 6 above)".

Paragraph 15

Lines 3 - 4

Replace the words "the more so as, under those ..." by ".. and that, in such...."

Line 5

Replace the word "extremely" by "more".

Line 17

Put a full-stop after the word "granted", and delete the rest of the sentence.

Paragraph 16 (see below)

Paragraph 17 (to become paragraph 16)

It should read as follows (amendments being underlined):

"On this point and as regards tariff policies (the word "future" being deleted), the representatives of the member States and of the High Authority gave to the Working Party specific assurance that the Community has no intention of introducing protective or restrictive policies, that they are determined to harmonize their tariffs on Treaty products at the end of the transitional period, and that the Community is prepared to expedite this process of harmonization and reduction of Customs tariffs through negotiations with the other contracting parties concerned."

Paragraph 16 (to become paragraph 17)

Lines 5 - 6

Replace the words " ... a permanent elimination of duties which happened to be suspended ..." by " ... the maintenance of the suspension of existing duties ..."

Line 7

Insert the words "in addition" after "indicated".

Line 8

Insert the words "... at the end of the transitional period ..." after "tariffs".

Paragraph 18

The paragraph should end after the word "countries" (line 3).

The rest of the paragraph to be deleted.

Paragraph 19

Line 7

Replace the words "Working Party" by "The Austrian delegation".

Line 10

Replace the word "it" by "the Working Party".

Line 16

Insert a full-stop after the word "result" and delete the rest of the sentence.

Alternative proposal

If this deletion is not accepted, the following sentence should be added to the end of the paragraph:

"The representatives of the member States pointed out in this connection that, according to paragraph 4 of the Convention on transitional provisions, the Community's negotiations with third countries should extend not only to tariff questions, but generally to economic and social relations relating to coal and steel between the Community and such countries."

Paragraph 21

Line 2

Insert a full-stop after the word "information".

Replace the word "and" by "After noting the statement of the representative of the member States as set out on page 15 under item V." *

Line 5

Delete the word "future".

* NOTE: As a result of this amendment, the words "The representative of the High Authority (page 15, item V) should read "The representative of the member States".

Paragraph 22

This paragraph should read:

"Although agreements among producers may not be affecting directly the interests of third countries when their influence does not extend beyond the common market, there cannot be any doubt that all contracting parties are most directly concerned in the existence and activities of export cartels and other producers' arrangements which may influence the level of prices charged by Community exporters. Moreover it is clear that the waiver was granted on the understanding that the member States would ensure the full achievement of the objectives of the Treaty; and there is no doubt that one of those objectives is to prevent restrictive practices impeding normal competition within the Community so far as they relate to coal and steel products."

Paragraph 23

Line 11

Replace the words "were to create" by "resulted in creating".

Paragraph 24

Line 1 . . .

Delete the words "Leading aside the legal issues involved ...".

The first sentence would therefore begin by "Some members ..."

Insert after the words "Working Party", the phrase "... setting legal issues aside,"

Line 2

Replace the word "substantial" by the word "certain".

Lines 3 and 4

Delete the phrase "and of the total production of some of its members".

Line 4

Delete the word "clear".

Line 6

Replace the word "when" by the phrase "... if, as it did do for a certain time, ..."

Line 7

Replace the words "Even on that count ..." by the phrase "Always leaving legal issues aside, ..."

Paragraph 24 should therefore read:

"Some members of the Working Party, leaving aside the legal issues involved, considered that the very existence of an export cartel covering a certain percentage of the total production of the Community poses a possibility that it may exert a disturbing influence on conditions of competition in the common market itself, especially if, as it did do for a certain time, the export cartel introduced a quota system to impose discipline among its members. They feel, always leaving legal issues aside, that the High Authority cannot prima facie disclaim responsibility in this matter."

Paragraph 25

Line 2

Delete the words "as indicated in its January report".

Line 3

After the word "closely" insert "as was indicated in its January report to the Common Assembly, which has been published".

Line 4

Replace the phrase "was not in a position" by "has not had ...".

(This latter phrase might be deleted).

Paragraph 26

This paragraph should be amended to read as follows (amendments being underlined):

"In view of the importance which they attach to the problem of cartels, the countries of the Working Party, non-members of the ECSC, wish to refer to paragraph 32 of the report submitted last year and to express again the hope that the High Authority will see its way to make available to the CONTRACTING PARTIES the results of its examination of producers' agreements, as well as the remedial measures it may decide to take in so far as those results or measures relate to the undertakings of the Community under the Decision of 10 November 1952. They are fully aware of the special difficulties which the High Authority may experience in submitting such information and of the limitations which are imposed on the High Authority by the Treaty regarding this matter. They believe, however, that, due account being taken of those difficulties and

limitations, it should be possible for the High Authority to meet, to a certain extent, the wishes expressed by them. They noted further that some of the studies referred to above have been completed, and that a discussion of the results of those studies will take place in the very near future. They express the hope that it would be possible for this information to be made available to the CONTRACTING PARTIES when they consider the next report."

Paragraph 27

Line 5

Replace the words "as well as under...." by "... recalled in ...".

Paragraph 28

Line 1

Replace the phrase "The conclusion reached by the Working Party was ..." by "The countries of the Working Party, non-members of the ECSC, considered..."

Line 3

Insert the word "export" before the word "crisis".

Line 4

After the word "Community" insert the following phrase:

"The observer of the High Authority reaffirmed in this connection that the High Authority must consider export prices independently of the existence of an export cartel."

Paragraph 30

Line 2

Replace the words "been achieved" by "taken place".

Paragraph 31

At the end of this paragraph add the following text:

"In this connection, the observer of the High Authority made the following remarks:

The CONTRACTING PARTIES' examination must logically bear on the period between the dates of submission of the first and second Annual Reports. Consequently there could be no discussion in the Working Party of prices after 20 October, nor any allusion to the situation which might exist subsequent to the period covered by the next report by the member States to the CONTRACTING PARTIES. Furthermore, he declared that the figures

communicated to the Working Party did not show any substantial disparity between export prices and prices on the common market. For most of the categories of steel for which prices had been supplied, the export prices tended rather to be lower than internal market prices, and it was only and not especially for certain types of sheets and plates that a certain disparity, not in the least substantial, had been noted between export prices and those prevailing in the internal market."

Paragraph 32

Lines 6 - 8

After the words "in his opinion ..." delete the words "... any judgement on equitable prices could be reached only on the basis of actual prices, and, in this instance, ..."

Line 13

Insert after the words "lower than" the words "or equal to".

Line 14

After the word "market" add the following text:

"In the opinion of the High Authority, the statement made on the fairness of prices in paragraph 11 of the second report by the member States could not therefore be refuted."

Paragraph 33

Line 18

Replace the phrase "followed the lead of Community prices" by "were aligned on Community export prices".

At the end of the paragraph add the following text:

"He pointed out in this connection that it was impossible to neglect the influence exercised on prices by the competition of medium-sized and small traders. Moreover there did exist on the world steel market real and potential competition between the large-scale producers and, lastly, for certain categories of steel the most important sellers on the world market were not within the Community."

Paragraph 34

Line 5

Replace the words "The Working Party also suggests", by "It was also suggested ...".

At the end of the paragraph add the following text:

"The observer of the High Authority pointed out that, while desiring to facilitate the work of the contracting parties to the greatest extent possible, he could make no firm promise on the subject, in view of the fact that the High Authority must always take into account the limits imposed on it by the need for business secrecy."

IV. CONCLUSION

Paragraph 38

Line 2

Insert before the word "report" the words "second annual".

Line 5

Delete the word "definite".

Delete the last sentence.

Paragraph 39

Delete the first sentence.

Paragraph 40

Lines 2 - 4

Replace the words "... of the formal undertaking of the member States to achieve the objectives of the Treaty they had concluded ..." by "... of the formal commitment undertaken by the member States to achieve the objectives of the Treaty ...".

Paragraph 41

Insert the following text at the beginning of the paragraph:

"The representatives of the member countries stated that they in no way ignored those considerations and that the measures taken by the Community definitely showed that they have always been aware of their obligations."

Line 4

Delete the word "surely".

Line 5

Replace the words "The Working Party feels..." by "Some members of the Working Party feel ...".

Line 9

Replace the words "might have been" by "they".

At the end of the paragraph add the following text:

"In this connection the Italian delegation recalled that the method of integration of Italy in the common market was regulated by paragraph 30 of the Convention which could have permitted a slower rhythm of integration. As regards harmonization, member States recalled that the Community was still ready to expedite it by means of negotiations."

Paragraph 42

To be deleted.

Paragraph 43

Paragraph 43 should read as follows:

"The Working Party has duly noted in Part III of this Report the specific measures taken during the period under review to give effect to the commitments of the member States of the Community that they would follow a liberal policy and take account of the interests of third countries both as consumers and as suppliers of coal and steel products, as well as the assurances given in the course of the discussion regarding the future."

Paragraph 44

Delete the present text and replace it by the following:

"The discussion had brought out certain questions of principle which the Working Party felt obliged to bring to the attention of the contracting parties. In fact, a certain divergency of views had been shown by the members of the Working Party in connection with the exact scope of the waiver."

Paragraph 45

Line 10

Delete the last two sentences and replace them by the following text which should be a new paragraph:

"The representatives of the member States expressed their anxiety at the interpretation which might be given to the commitments deriving from a waiver drafted in 1952 if the tendencies shown in those statements

were to be followed; they considered for their part that the waiver which had been granted to them included two sorts of commitments; those taken between member States within the context of the Treaty and the Convention on Transitional Provisions, which were referred to in the waiver itself, and those taken vis-à-vis the contracting parties.

"They considered, moreover, that a certain number of assurances had been given to the contracting parties including that which required that they should be supplied with information on the Community's activities, on the understanding that such information was not always suitable for discussion by the contracting parties.

"The Working Party recognized that these questions warranted thorough consideration and even suggested that before proceeding to consider the third annual report by the member States, the contracting parties should define the interpretation to be given to the above-mentioned provisions of the Decision."

Paragraph 46

Replace the present text by the following:

"The Working Party noted the assurances given by the authorities responsible for the application of the Treaty that they were fully aware of the importance of problems connected with the supply of coal and steel to third countries. These problems had been discussed during the Working Party's sessions by certain members who did not doubt that the setting up of a Community which was the main source of supplies for two of the most essential materials for industrial production might alter the conditions of competition on world markets. These same members considered that any agreement regarding export prices between the producers of such a Community might adversely affect the interests of consumers in third countries.

The authorities responsible for the Treaty had then expressed their readiness to intervene if export prices became inequitable."

Paragraph 47

Replace the present text by the following:

"In conclusion, the Working Party noted that the member States of the ECSC had met their obligation to keep the contracting parties informed of the measures taken by them for the integral application of the Treaty. In view of paragraphs 31 and 32 of this Report and the various information submitted to it, the Working Party placed on record its opinion that the export prices charged by the Community producers have not been inequitable. It considered that on the whole the interests of third countries had been protected during the period covered by the Second Annual Report by member States."