

GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONTRACTING PARTIES
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TREATY ESTABLISHING THE ATOMIC ENERGY COMMUNITY

Note by the Chairman of the Committee on the Treaty of Rome

1. At the last meeting of the Committee on 7 November, I mentioned that the CONTRACTING PARTIES had referred to the Committee the text of the Euratom Treaty with a request that the Committee examine those parts of the Treaty which relate to the Common Market for nuclear products. I indicated that I would consult with Mr. Hoogwater, representing the Six Member States, Mr. Mégret of the Secretariat of the Interim Committee of the Common Market and Euratom, Mr. Hollis of the United States delegation and Mr. Jardine of the United Kingdom delegation, and that I would report to the Committee at its next meeting.

2. The following notes set out the points which appear to be relevant to the consideration by the CONTRACTING PARTIES of the provisions of the Euratom Treaty relating to the common market for nuclear products.

Creation of the Common Market for Nuclear Products

3. Except to the extent the Euratom Treaty provides for a different plan and schedule for the formation of a common nuclear market as provided for in Chapter IX, trade in the products covered by the common market for nuclear products enumerated in the three lists in Annex IV of the Euratom Treaty, is subject to the provisions of the Economic Community Treaty. Articles 92 to 95 of the Euratom Treaty, however, provide for an acceleration of steps toward formation of the Customs Union provided for in the Economic Community Treaty in the case of the products covered by the nuclear common market. The lists of products subject to the provisions of these Articles may be modified by the Euratom Council.

4. Freedom of trade in these products among the Member States is provided for in Article 93 at the end of one year after the entry into force of the Treaty, except that freedom of trade for products in List B (products having both nuclear and non-nuclear uses) will be introduced when common tariff rates are established for them and provided they are covered by a certificate that they are intended for nuclear purposes.

5. The earlier application of a common tariff for nuclear products is provided for in Articles 94 and 95. For the products in List A¹ (basic nuclear raw materials) and List A² (other nuclear products) the common tariff will be applied at the end of one year after the entry into force of the Treaty. For the products

in List A¹ the level of the common tariff will be that of the lowest tariff² applied on 1 January 1957 in any Member State. For the products in List A² the rates of the common tariff will be fixed by negotiation or, failing that, by the Euratom Council. The CONTRACTING PARTIES will be informed as soon as possible of the rates applied to the products in List A¹ and of the rates fixed for the products in List A². For the products in List B the rates of the common tariff will be determined under the rules of the Economic Community Treaty and will enter into force in accordance with the provisions of that Treaty unless the Euratom Council should decide upon an earlier application. The acceleration of the entry into force of these rates may raise special questions as to the application, where appropriate, of the procedures of paragraph 6 of Article XXIV. Presumably the question whether, as a result of such rates, the common tariff complies with paragraph 5(a) of that Article could most appropriately be deferred until this problem is considered under the Economic Community Treaty.

Territorial Application

6. Article 198 of the Euratom Treaty stipulates that the provisions of the Treaty will apply to:

- (a) the European territories of Member States;
- (b) the non-European territories subject to the jurisdiction of Member States; and
- (c) the European territories for the conduct of whose foreign relations a Member State is responsible.

7. The rules governing the field of application of the Economic Community Treaty lead to the same results: the list of territories covered by these two texts is the same; the same reservation applies to two of them - Surinam and the Netherlands Antilles - namely that the Kingdom of the Netherlands is entitled to ratify the Treaties either on behalf of the Kingdom as a whole (that is, including Surinam and the Netherlands Antilles) or only on behalf of the Kingdom in Europe and Netherlands New Guinea.¹ In the event that the Euratom Treaty should be applied to these territories or any of them without the Economic Community Treaty being applied in the same conditions, special consideration by the CONTRACTING PARTIES would be necessary.

8. It is understood that the common tariff rates fixed for nuclear products will be applied also to imports from third countries into the non-European territories included in the nuclear common market.

9. Article 93 provides that non-European territories under the jurisdiction of a Member State may continue to levy import and export duties or charges "of a purely fiscal nature". (An exception for fiscal charges levied by the associated countries and territories is contained also in Article 133:3 of the Economic Community Treaty.)

¹ Cf. Article 227 of the Economic Community Treaty and the Protocol relating to the Application of the Treaty to the non-European parts of the Kingdom of the Netherlands.

Conclusions

10. It appears from the foregoing that:

- (a) The arrangements for the introduction of freedom of trade among Member States and for the establishment of common rates for nuclear products should be taken into account by the CONTRACTING PARTIES in their study of the customs union arrangements of the European Community Treaty and in their consideration of the question of a plan and schedule for the customs union as required by Article XXIV of GATT.
- (b) The CONTRACTING PARTIES will not be able to reach final conclusions at this stage regarding the nuclear common market provided for in Chapter IX of the Euratom Treaty, due to the fact that the rates of the common tariff for the products enumerated in Lists A² and B are not yet known.
- (c) If the Euratom Treaty should be applied to a non-European territory while the Economic Community Treaty is not applied to that territory, the situation arising would require consideration by the CONTRACTING PARTIES.
- (d) The Committee on the Treaty of Rome, in making recommendations to the CONTRACTING PARTIES for the continuation of the studies commenced at the Twelfth Session, should recommend that the provisions of the Euratom Treaty referred to in this Note be considered along with the Economic Community Treaty.
- (e) Any action that may eventually be taken by the CONTRACTING PARTIES relating to the Economic Community Treaty should take into account the relevant provisions of the Euratom Treaty.