

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONTRACTING PARTIES  
Twelfth Session

Committee on Rome Treaty

## TRADE IN AGRICULTURAL PRODUCTS

Report by Sub-Group C

### I. INTRODUCTION

1. The Sub-Group considered the agricultural provisions of the Rome Treaty in relation to the General Agreement. The discussion covered the arrangements to be applied during the transitional period and the development during that period of the common agricultural policy to be applied not later than at the end of that period. The Sub-Group considered also the probable effects of the common organization and its agricultural policy on the interests of third countries, with special reference to those countries whose economies depend mainly on the production and exports of a few agricultural commodities.

2. The Sub-Group heard a statement of the representative of the Six in which he stressed that the General Agreement does not forbid conferring powers from national authorities on common institutions. Contracting parties could, in his opinion, only intervene if the Community executed these powers in a way contrary to the obligations under the General Agreement. Here, contracting parties had all guarantees they needed as, in the Rome Treaty, it was stipulated that the Six countries would abide by the obligations they undertook in the GATT; it followed, therefore, that the provisions of the Rome Treaty concerning agriculture are in complete accordance with Article XXIV of the GATT. In the course of the discussion, the observer for the Interim Committee stressed that, the fact that the Six consider that the Rome Treaty is consistent with Article XXIV, did not imply that the institutions of the Community would be free to shape their policy irrespective of the international commitments of the Member States. As was pointed out already in the general discussion, the Community was bound by the provisions of Article 234 and therefore, in shaping the commercial policy of the Community, it had to take into account the international commitments of the Member States. This did not mean that the institutions would be debarred from considering measures which were not consistent with the provisions of the General Agreement, but, as any individual contracting party, they would have to reconcile their action with the provisions of the General Agreement by appropriate methods. The other members of the Sub-Group duly noted these statements which helped to clarify to a certain extent the relations between the Community and the General Agreement, but felt that this still left many important questions unresolved.

## II. MEASURES TO BE APPLIED DURING THE TRANSITIONAL PERIOD

### (i) Minimum prices

3. The representative of the Six in reply to questions explained the intentions underlying the system of minimum prices. Minimum prices can be applied by each of the Six countries under the conditions laid down in Article 44, paragraph 1. On the other hand, the provisions of the Rome Treaty leave Member countries free to apply minimum prices to third countries as well. Its aim is to facilitate the abolition of internal trade barriers and thus to comply fully with the provisions of Article XXIV by means which take into account the special conditions prevailing in the agricultural field, and thus to facilitate the process of adaptation to a common price level and of equalization of the conditions of agricultural producers. They were not in a position to give more definite indications as to the scope of the minimum prices, as the objective criteria would be determined only later. While the system of minimum prices is applicable to all products enumerated in Annex II which contains a certain number of tropical products, the Six stated that minimum prices would be used only for a limited number of products, and only in cases where the progressive abolition of customs duties and quantitative restrictions between Member States may result in prices likely to jeopardize the achievement of the objectives set out in Article 39 of the Rome Treaty. Members of the Sub-Group observed that since the products listed in Annex II were subject to the provisions of Articles 38 to 46 of the Treaty, minimum price arrangements could be applied to products of which there was no production at all or only minimal production in the countries of the Six, provided the conditions in Article 44, paragraph 1 were satisfied.

4. As regards the probable effects on imports from third countries of the minimum price system, the Sub-Group was informed that the reference in Article 44, paragraph 1 "in a non-discriminatory manner" was understood to relate only to trade among the Six and did not imply a commitment to apply the same treatment to the imports from third countries. In the opinion of the Six, however, this operation of minimum prices to the intra-Community trade would not necessarily lead to a reduction in such imports and paragraph 2 of Article 44 was intended to take into account the interests of third countries because of its influence on the price levels. Serious doubts were expressed on this point by members of the Sub-Group who thought that, contrary to the view held by the Six, paragraph 2 of Article 44 did not seem to offer any guarantee in this respect. In the view of some members the imposition of minimum prices appeared to require barriers to trade between the Six themselves as well as between the Six and third countries. In addition, in their opinion, the provisions in paragraphs 1 and 2 of Article 44, taken together, seem to lend themselves to the interpretation that the application of minimum prices could result in a displacement of the trade with outside countries. In other words, if there is an increase in demand, there is no assurance that outside suppliers will share in that increase, and, if there is no increase in demand, it is quite possible that imports from outside would decline. They feel also that if minimum prices are applied to trade among the Six, it could become necessary, depending on the level of prices established, to apply to imports from outside quotas, which would not be consistent with the GATT provisions, or, if imports would be subject to minimum prices plus an external tariff, this could in effect seriously restrict and perhaps even prevent imports. These fears persisted even though the representative of the Six stated once again that, in stressing them, the members of the Sub-Group did not take into account that the Community would abide by the provisions of the General Agreement.

(11) Long-term contracts

5. Members of the Sub-Group, while recognizing that the General Agreement did not forbid the use of long-term contracts as such, felt that the proposed form of the contracts could hardly be reconciled with the provisions of Article XXIV. Further, their use was likely to lead to additional import barriers and restraints of multilateral trade contrary to the provisions of the General Agreement. Many members thought that since these contracts would be based on the average volume of exchanges between Member States during a fixed period preceding the entry into force of the Treaty, the increase in this volume, which is provided for in Article 45, paragraph 2, could take place only at the expense of supplies from other countries. In such cases conflict with the provisions of the GATT would appear to be inevitable. The provision in that paragraph that due account should be taken of traditional trade currents did not, in the opinion of several members, seem to offer adequate guarantees against such a development. The fears expressed by many members persisted even though the representative of the Six pointed out that the main aim of the long-term contracts was to make possible a development towards freeing trade in certain products for which the provisions in the Rome Treaty relating to the abolition of quantitative restrictions and import duties are not adequate because of the existence of certain national regulations.

6. Particular concern was expressed with respect to the provisions of Article 45, paragraph 3. This paragraph, while indicating certain circumstances in which imports from third countries could be permitted, also gave the institutions the power to prevent even such limited imports. The representative of the Six explained that, under this paragraph, it was intended to permit individual countries among the Six to preserve their traditional trading interests with outside countries, and that the decision to deviate from that principle would require a unanimous vote, as stated in the last sentence of the paragraph. These explanations were not considered as convincing by many members of the Sub-Group who maintained that these provisions were likely to produce harmful effects for outside countries.

7. The representatives of the Six, while assuring members that due consideration would be given to traditional trade currents, recognized that the carrying out of long-term contracts might, in some cases, lead to a reduction in imports from outside the Common Market. They thought that the Six as a whole should have the same possibilities in the field of agricultural policy, as has each of the contracting parties. A fall in imports could well be envisaged in any country whose agricultural production expanded. This view was not found acceptable to several members who emphasized that, the mere fact that certain restrictive measures as at present applied by some of the Six had not been formally challenged as being in conflict with specific provisions of the General Agreement did not justify their perpetuation. Moreover, action of the Six taken in the field of agricultural policy would have to be consistent with Article XXIV of the General Agreement. The representative of the Six gave assurances that the long-term contracts would only be applied to a limited number of products and only until the national organizations are replaced by one of the forms of common organization provided for in the Treaty.

### III. ESTABLISHMENT OF A COMMON ORGANIZATION

8. As regards the setting up of the common organization and the elaboration of the common agricultural policy to be pursued, some members of the Sub-Group were of the opinion that the plans outlined in the Treaty are too vague to enable it to come to any definite conclusion. It was, however, observed by these members that the measures listed in Article 40, paragraph 3 included some, the implementation of which might be in conflict with Article XXIV or with other provisions of the General Agreement which are not affected by that Article; in this respect, concern was particularly expressed regarding the common machinery for stabilizing exports and imports. Attention was also drawn to the mandatory requirement in Article 46 in respect of the application of a countervailing charge. The representative of the Six pointed out that the countervailing charges mentioned in Article 46 were of a temporary nature concerning only relations between the Member States of the Community. Their aim is to restore the balance in competitive conditions when, as a result of the existence in one Member State of a national marketing organization, a product benefits from an abnormally favourable competitive position compared with that of the same product in one or more of the other Member States of the Community. Several members expressed the opinion that as it was difficult to have a clear idea about what the policy after the transitional period will be and as, moreover, the setting up of a common organization would proceed by stages during the transitional period, adequate means should be established in order to enable the CONTRACTING PARTIES to follow the plans of the Common Market institutions as they unfold.

9. With respect to the measures contemplated to replace national market organizations by a common organization, members of the Sub-Group asked for clarification of the provisions of Article 43, paragraph 3(a) in order to have a clear idea of what would be the scope of the guarantee regarding the standard of living of producers. The representative of the Six stated that the measures envisaged should not necessarily be taken to mean that a certain price would be guaranteed to producers, but that the aim was to offer guarantees of a wider scope, and to take also social factors into account. These guarantees would avoid too sudden and abrupt changes in the living standard of producers in individual Member States. Fears were expressed in the Sub-Group that if such guarantees were aimed at maintaining prices high enough to support the highest-cost producer, this would lead to an expansion in production which would not be justified for purely economic reasons and that the sum total of the value of the guarantees granted would exceed what is provided for under the present individual systems. The representative of the Six wished to dispel these fears and stated that if marginal producers were protected in the way indicated, the Community would never reach the objectives set out in the Treaty. As regards specifically the wording in the English version of Article 43, paragraph 3(a) "due account being taken of the time-factor in respect of possible adjustments and of necessary specializations", it was explained by the representative of the Six that it has to be considered as the counterpart of the requirement with regard to the guarantees mentioned previously in this paragraph and requires that the possible adjustments and necessary adaptations in the Community as a whole would have to be taken into account in determining the equivalent guarantees.

IV. EFFECTS ON COUNTRIES WHOSE ECONOMIES DEPEND ON ONE OR A FEW PRODUCTS

10. In the course of the discussion great importance was by some members attached to the effects which the Treaty may have on countries whose economies depend mainly on the exports of one or a few agricultural commodities. By way of illustration it was pointed out that there were, for a commodity like sugar, provisions laid down in the Treaty, the effects of which could be regarded as very dangerous for these countries. In addition to the extremely high rate in the proposed Common Tariff which was arrived at by agreement and not by averaging the existing duties, the system of minimum prices could lead to the exclusion of this product from the market of the Six. Furthermore, the tariff quotas for coffee, cocoa, and bananas, together with tariffs to be negotiated among the Six could produce harmful effects on suppliers other than the associated territories. The uncertainty about the rates to be applied for several agricultural commodities was a matter which added to the feeling of concern. In this connexion, the points were made that the application of minimum prices could lead to disruption of established trade channels and an increase in State trading in commodities not produced in the metropolitan territories of the Six, and also that there were no transitional problems justifying the application of minimum prices or State trading measures.

11. The representative of the Six gave the assurance that the Treaty would not be used in such a way as to exclude imports; he stated in particular that the tariff quotas or suspensions provided for by Article 25 would have effects which are in line with the interests of third countries as they would permit the imports of certain quantities at a reduced duty or duty-free. As regards minimum prices for tropical products, the inclusion of the latter in Annex II does not necessarily mean that minimum prices would apply to those products. As regards the Common Tariff for sugar, it was stressed that it was lower than the arithmetic average of the legal rates.

12. The Sub-Group noted the expressions of concern by the representatives of countries whose economies depend on a few products, and most of the members came to the conclusion that the CONTRACTING PARTIES, when they consider necessary arrangements with the Six along the lines suggested in Section V below, should pay particular attention to the effects of the agricultural policy of the Community on the trade of those countries.

V. CONSISTENCY WITH THE GENERAL AGREEMENT AND LIAISON WITH THE CONTRACTING PARTIES

13. Members of the Sub-Group commented on the agricultural provisions in the light of Article XXIV of the GATT. They believed that paragraph 4 of Article XXIV establishes the basic principles which should be applied in the formation of a customs union in order that it may be consistent with the objectives of the GATT. Where questions arise as to the application of the provisions of paragraphs 5 to 9 in particular cases, such questions should be resolved in a manner consistent with the principles embodied in paragraph 4. Some members said they could very well envisage that the result of the common agricultural policy would be the exclusion of all, or a large part of, the trade with third countries. The representative of the Six, while understanding the motives for concern which had been expressed, stressed that there was no provision of the GATT that compelled the Six to have a common agricultural policy. If they planned to have it, it was because their

final objective was the establishing of an Economic Union, the Customs Union being only one aspect of it. He saw nothing in the agricultural provisions of the Rome Treaty which would run counter to Article XXIV; if, later on, the institutions were faced with situations where measures inconsistent with their international commitments were found necessary in order to carry out their agricultural policy, the Community would ask for a waiver under the General Agreement. In fact it was his opinion that the common agricultural policy of the Community was only subject to discussion within the CONTRACTING PARTIES, when there was the question of concrete action which would be contrary to the obligations under the General Agreement.

14. The members of the Sub-Group other than the representatives of the Six noted the large area of discretion left to the institutions of the Six and the lack of a sufficiently precise plan as to how the agricultural provisions of the Rome Treaty would be applied both in regard to trade of third countries with Members of the Community, and in regard to the removal of barriers to trade between the Member States. The majority of members of the Sub-Group considered moreover that the particular measures envisaged under the Treaty carried a strong presumption of increased external barriers and a substitution of new internal barriers in place of existing tariffs and other measures. For these reasons the members of the Sub-Group, excluding the representatives of the Six, decided that it was not able to determine at this time either that the agricultural provisions of the Rome Treaty or their implementation would be consistent with the provisions of the General Agreement.

15. The Sub-Group noted that Article XXIV, paragraph 7, lays down certain responsibilities for the contracting parties in relation to proposals for a Customs Union. Although it is not proposed that recommendations under paragraph 7 should be made at the present time, this should not be construed to mean that the CONTRACTING PARTIES may not wish to take action under this paragraph at a later stage.

16. All the members of the Sub-Group except the representatives of the Six stated that, for various reasons, it would be necessary to provide for some regular and appropriate machinery so that the CONTRACTING PARTIES could follow and consider together with the Six the measures to be taken in the course of establishing the common agricultural policy and organization and the relationship of these measures with the provisions of the General Agreement.

17. The representative of the Six thought that Article 229 and the General Agreement provided adequately for any liaison that might be found necessary. He further stated that an obligation for the Six to supply information on their measures was not warranted so long as other individual contracting parties were not under any obligation to communicate the measures they take in the field of agricultural policy. He also stated that he did not see how the fact that certain national powers were taken over by the common institutions could be interpreted as being in conflict with Article XXIV. He suggested that this question should be referred to the CONTRACTING PARTIES. But he stated that in no case could he agree that special liaison machinery, whatever might be its objects or scope, should be established; as he had indicated in the discussions in the Sub-Group, Article XXII provided the possibilities for consultation which the contracting parties may desire.

Other members of the Sub-Group stressed that the aim of a liaison machinery was not to exercise control over the carrying out of the agricultural provisions, nor was it suggested that each measure taken would necessarily require consultations with the CONTRACTING PARTIES.

18. The representatives of the Six felt that the question as to whether or not machinery should be set up should be left to the Committee, whereas the other members of the Sub-Group, having considered paragraphs 16 and 17 above, recommend to the Committee that suitable machinery be set up.