

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED X

L/696

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Limited Distribution

EXAMINATION OF THE TREATY INSTITUTING THE EUROPEAN ECONOMIC COMMUNITY PURSUANT TO ARTICLE XXIV:7

Report by the Intersessional Committee

At their Eleventh Session the CONTRACTING PARTIES instructed the Intersessional Committee to follow developments in connexion with the plans of Belgium, the Netherlands, Luxemburg, France, Germany and Italy for the establishment of a common market, and to report to the Twelfth Session. The Treaty establishing a European Economic Community, which was signed by these six Governments on 25 March 1957, has been submitted to the CONTRACTING PARTIES for consideration in accordance with paragraph 7(a) of Article XXIV. This item therefore has been included in the Provisional Agenda for the Twelfth Session.

At its meeting in April, the Committee considered the terms of the Treaty and the procedures to be followed in its examination (IC/SR.30). In order to facilitate examination of the Treaty by the CONTRACTING PARTIES, and with a view to clarifying and defining the issues involved, the Committee sought information from the Interim Committee for the Common Market. The Interim Committee submitted a memorandum on the important aspects of the Treaty in relation to the provisions of GATT, and questions by contracting parties concerning the provisions of the Treaty and its implementation were transmitted to the Interim Committee. The memorandum and the answers to the questions have been distributed to the contracting parties. These, and other documents which will be available at the Twelfth Session, are described in Annex A.

The CONTRACTING PARTIES will wish to determine under what provisions of the GATT the Treaty should be considered. With a view to facilitating discussion of this question at the Twelfth Session, the Committee has listed, in Annex B, a number of provisions of Article XXIV which appear relevant to the examination by the CONTRACTING PARTIES. This is intended to assist the CONTRACTING PARTIES in making arrangements for their examination of the Treaty. Although the list relates only to certain provisions of Article XXIV, it is recognized that the CONTRACTING PARTIES may wish also to consider the provisions of the Treaty in relation to other Articles of the GATT.

The list in Annex B includes a number of references to relevant documents. These references are not exhaustive and do not prejudice in any way either the interpretation of the GATT or the relationship between the provisions of the Treaty and the General Agreement.

The CONTRACTING PARTIES will themselves wish to decide how the Treaty is to be examined in the light of the provisions of the General Agreement. However, the Committee is submitting some practical suggestions as to the procedural arrangements that might be followed by the CONTRACTING PARTIES. These suggestions are contained in Annex C.

ANNEX A

DOCUMENTATION AS OF 20 SEPTEMBER 1957

1. The Text of the Treaty (together with the Annexes and Protocols)

The official text of the Treaty (in French) and a provisional translation in English were distributed to contracting parties on 24 April 1957 (L/626). The final English translation was distributed on 28 August (L/626/Add.1).

2. Discussion of the Treaty by the Intersessional Committee (IC/SR.30)

The discussions at the meeting of the Committee on 24 to 27 April were recorded at greater length than usual. The procedures agreed upon by the Committee for further discussion of this matter are recorded on Page 40 of the document.

3. Memorandum by the Interim Committee for the Common Market (L/637)¹

At the meeting in April, the Chairman of the Interim Committee for the Common Market advised that the Six Member Governments were preparing a memorandum for submission to the CONTRACTING PARTIES. This memorandum which was distributed on 11 June 1957 sets out the important aspects of the Treaty, particularly in relation to the provisions of the General Agreement. This memorandum contains the following sections:

I. GENERAL

II. PROVISIONS OF THE TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY GOVERNING COMMUNITY TRADE AND TRADE WITH THIRD COUNTRIES

A. Trade as between Member States

- (a) Customs duties
- (b) Quantitative restrictions
- (c) Special problems

¹ The English translation of the memorandum has been revised - L/637/Rev. 1.

- B. Trade with third countries
 - Customs duties
 - (a) Level of the common tariff
 - (b) The progressive bringing of national tariffs into line with the common tariffs
 - (c) The granting of tariff quotas at reduced rates of duty or duty-free
 - (d) Modifications of the common customs tariff
 - Quantitative restrictions

III. THE ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES WITH THE COMMON MARKET

IV. CONCLUSIONS

4. Questions submitted to the Interim Committee and the Answers (L/656)

The "consolidated" questions submitted to the Interim Committee on behalf of contracting parties and the answers furnished by the Committee were distributed on 2 August. The questions and answers are arranged under the following headings:

- I. The Transitional Period
- II. The Elimination of Customs Duties between Member States
- III. The Common Tariff and Negotiations on GATT Concessions
- IV. Elimination of Quantitative Restrictions between Member States
- V. Agriculture
- VI. Balance of Payments
- VII. Commercial Policy
- VIII. Overseas Countries and Territories
- IX. Article 234
- X. Miscellaneous Questions

5. The Specimen Tariff

The Interim Committee for the Common Market has furnished copies of a "specimen" of the Common Tariff to be adopted by the Six Member States and these have been distributed to contracting parties.

ANNEX B

CERTAIN RELEVANT PROVISIONS OF ARTICLE XXIV

Article XXIV:4

Paragraph 4 reads: "The contracting parties recognize the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries parties to such agreements. They also recognize that the purpose of a customs union or of a free trade area should be to facilitate trade between the parties and not to raise barriers to the trade of other contracting parties with such parties."

This appears to the Intersessional Committee to be a general statement relevant to the whole examination of the Treaty by the CONTRACTING PARTIES.

Article XXIV:5

Paragraph 5(a)

Can the duties and other regulations of commerce contemplated by the Treaty be regarded as fulfilling the requirement that "the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with contracting parties not parties to such union or agreement shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union or the adoption of the interim agreement as the case may be"?

Documentation

Articles of the Treaty: 18-29, 38-47, 104-109, 110-116.

Memorandum: Paragraphs 24-27, 34.

Questions and answers: 11-14, 25-28, 31, 34-37, 46-47, 50-52, 55, 57-61, 65, 67, 69-71, 76-78, 81, 83, 84, 86-89, 93, 98, 99, 129.

Paragraph 5(b)

In its reply to Question 103 the Interim Committee stated that "the association of the overseas countries and territories would lead to a free trade area relationship between the territories and the Common Market". Do these proposals conform to the provisions of paragraph 5(b) which require that "the duties and other regulations of commerce maintained in each of the

constituent territories and applicable at the formation of such free trade area or the adoption of such interim agreement to the trade of contracting parties not included in such area or not parties to such agreement shall not be higher or more restrictive than the corresponding duties and other regulations of commerce existing in the same constituent territories prior to the formation of the free trade area, or interim agreement, as the case may be"?

Documentation

Articles of the Treaty 131-136 and Article 15 of the Convention relating to the Association of the Overseas Countries and Territories.

Questions and answers: 88, 90, 105, 107, 109-114, 117, 129.

Paragraph 5(c)

Do the CONTRACTING PARTIES consider that the provisions of the Treaty relating to the customs union and the association of the overseas countries and territories include "a plan and schedule for the formation of such a customs union or of such a free trade area within a reasonable length of time"?

Documentation

A. Customs Union

Articles of the Treaty 8, 11-17, 18-29, 30-37, 38-47, 110-116, 226, the Protocols concerning France, Italy and Luxemburg and the Protocol concerning Mineral Oils and Certain of their Derivatives.

Memorandum: Paragraphs 11-13, 15 et seq.

Questions and answers: 1-6, 39-45, 53, 54, 74, 85, 95.

B. Free Trade Area

Articles of the Treaty 131-136 and Articles 9-15 and 17 of the Convention relating to the Association of the Overseas Countries and Territories.

Memorandum: Paragraphs 35-38.

Questions and answers: 103, 107, 118.

Article XXIV:6

Will the proposed rates of duty involve increases in bound rates inconsistent with the provisions of Article II of the GATT? If so, what should be done to ensure the application of the provisions of paragraph 6 of Article XXIV?

Documentation

Article of the Treaty: III.

Questions and answers: 15, 32, 34-37, 97.

Article XXIV:7

Paragraph 7(a)

Is the information made available to the CONTRACTING PARTIES concerning the customs union and the association of the overseas countries and territories such as to enable them to make such reports and recommendations to contracting parties as they may deem appropriate?

Paragraph 7(b)

- (i) Can the CONTRACTING PARTIES determine, in the light of the plan and schedule and other information provided by the Member States, that the Treaty is likely to result in the formation of a customs union within the period contemplated by the Member States and that such period is a reasonable one? If not, do they have any recommendations to make to the Member States?

Documentation

Same references as under Paragraph 5(c).

- (ii) Can the CONTRACTING PARTIES determine, in the light of information provided by the Member States concerning the proposed arrangements with the overseas countries and territories, that these arrangements are likely to result in the formation of a free trade area within the period contemplated by the Member States and that such period is a reasonable one? If not, do they have any recommendations to make to the Member States?

Documentation

Same references as under Paragraph 5(c).

Paragraph 7(c)

If the need should arise, what ways and means would be adopted to give effect to Paragraph 7(c) of Article XXIV?

Documentation

Articles of the Treaty: 229, 236.

Questions and answers: 4-6.

Article XXIV:8

Paragraph 8(a)(i)

Having regard to the provisions of the Treaty, will the requirement be fulfilled that "duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV and XX) are eliminated with respect to substantially all the trade between the constituent territories of the union or at least with respect to substantially all the trade in products originating in such territories"?

Documentation

Articles of the Treaty: 9, 10, 11-17, 30-37, 38-47, 104-109.

Memorandum: Paragraphs 7, 15-23.

Questions and answers: 4-6, 39-41, 43-45, 49, 52, 54, 61, 62, 64, 66, 68, 75, 77, 80, 81, 83, 87-93.

Paragraph 8(a)(ii)

Having regard to the provisions of the Treaty, will the requirement be fulfilled that "subject to the provisions of paragraph 9, substantially the same duties and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union"?

Paragraph 8(b)

Having regard to the provisions of the Treaty relating to the overseas countries and territories will the requirement be fulfilled that "the duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV and XX) are eliminated on substantially all the trade between the constituent territories in products originating in such territories"?

Documentation

Articles of the Treaty. 131-136 and Articles 9-14 of the Convention,
relating to the Association of the Overseas Countries and Territories:

Memorandum: 15-23.

Questions and answers: 88, 103, 104, 109, 117.

Article XXIV:9

If the need should arise, what ways and means would be adopted to give effect to Paragraph 9 of Article XXIV?

Documentation

Protocol relating to goods originating in and coming from certain countries and enjoying special treatment on importation in one of the Member States.

ANNEX C

PROCEDURAL ARRANGEMENTS

The Committee submits the following practical suggestions for further preparatory work and for the examination of the Treaty by the CONTRACTING PARTIES.

1. Contracting parties which have further points on which they would like to obtain clarification prior to the Session should submit their questions without delay to the Executive Secretary who will transmit them to the Interim Committee. The Committee urges contracting parties to examine the specimen tariff, and to inform the secretariat of any additional data they might wish to obtain, for example, in relation to the proposed rates of duty on items bound in GATT Schedules which are not included in the specimen tariff.
2. The Committee instructs the secretariat to prepare, in consultation with the Interim Committee for the Common Market and the countries concerned, any statistical material which it might consider would be useful to the contracting parties in their examination of the Treaty.

3. Early in the Session the contracting parties should decide whether to hold a plenary discussion of the Treaty during the first days of the Session or to wait for this discussion to begin at the time of the Meeting of Ministers on 28 October. It was the general feeling of the Committee that it would be desirable to leave the plenary discussion until the Ministers are present, but that in that case it would be desirable to appoint a working party or working group at the beginning of the Session to continue the process of ascertaining all the required facts concerning the Treaty and its implementation.

4. The Committee assumes that at the conclusion of a plenary discussion the contracting parties will wish to establish one or more working parties to proceed with the careful examination of the Treaty in relation to the relevant provisions of the General Agreement. Whether it will be desirable to establish one working party with sub-groups or several working parties will have to be considered in the light of the convenience of delegations, but in any event it is recommended that work on the study of various problems in connexion with the Treaty should proceed concurrently. The Committee does not wish to suggest any division by categories of the aspects which will require examination, but brings this question to the notice of contracting parties so that their delegations to the Twelfth Session will be prepared to reach a decision on these matters at whatever stage in the Session it is decided to establish the working party.