GENERAL AGREEMENT ON
TARIFFS AND TRADE

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AGREEMENT BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND EGYPT

Report of the Working Party

1. At the meeting of the Council on 23 May 1977 (C/M/120) the CONTRACTING PARTIES were informed that on 18 January 1977 the European Communities and Egypt had signed the following instrument, copies of which were transmitted to the secretariat and circulated to contracting parties with document L/4521:

- Interim Agreement between the European Economic Community and the Arab Republic of Egypt.

2. At the meeting of the Council on 26 July 1977 (C/M/122) a working party was set up with the following terms of reference:

"To examine, in the light of the relevant provisions of the General Agreement, the provisions of the Interim Agreement between the European Economic Community and the Arab Republic of Egypt, signed on 18 January 1977 (L/4521), and to report to the Council." (L/4532/Rev.1.)

3. The Working Party met on 19 and 27 April 1978 and was chaired by Mrs. N. Breckenridge (Sri Lanka). It had available the text of the instrument cited above[1] as well as the replies to questions which had been asked by contracting parties (L/4640).

GENERAL ISSUES

4. In his opening statement, the spokesman for the European Communities (EC) first recalled that the Co-operation Agreements that the EC had signed on 18 January 1977 with the Arab Republic of Egypt, the Hashemite Kingdom of Jordan, the Syrian Arab Republic and, on 3 May 1977, with the Lebanese Republic had followed other agreements, virtually identical in form, already concluded with the three countries of

[1] Referred to in this document as the "Agreement".

the Maghreb and which had been examined in GATT[1] under the customary procedures. Those Agreements fell within the context of the global and balanced approach of the EC vis-à-vis the countries of the Mediterranean basin, and more generally within the context of the Community policy in regard to developing countries. Furthermore, the Agreements reflected a strengthening of co-operation links between the Nine and the Arab world. The object of the Agreements under reference was to achieve broad co-operation in order to contribute to the economic and social development of the four countries of the Machrek and foster a strengthening of harmonious relations between those countries and the EC. To that end, the Agreements provided for a series of instruments and actions in the field of economic, financial and technical co-operation and of trade. The Agreements were of indeterminate duration with provision for general review, the first such review to be made in 1979. Pending completion of the procedures for ratification of the Co-operation Agreements in the countries concerned, their provisions regarding trade between the EC and Egypt, Jordan, Syria and Lebanon respectively had been given advance implementation with effect from 1 July 1977 by the conclusion of four Interim Agreements which had been signed at the same time as the Co-operation Agreements.

5. The spokesman for the EC outlined some of the trade provisions of the Agreements; the object of the Agreements was to promote trade between the parties, taking account of their respective levels of development and of the need to ensure a better balance in their trade, with a view to accelerating the rate of growth of the trade of the four Machrek countries and improving the conditions of access for their products to the Community market. The European Economic Community (EEC), as an economically more developed entity, had conceived its obligations in the form of a régime affording unrestricted access to its market, as provided in the General Agreement for the formation of a free-trade area. Since the entry into force of the trade provisions of the four Agreements, the EEC had been observing the obligation to eliminate duties and other restrictive regulations of commerce with respect to substantially all its trade with Egypt, Jordan, Syria and Lebanon respectively. For the products other than those covered by the common agricultural policy, i.e., raw materials and industrial products including products of the European Coal and Steel Community, those four countries' exports enjoyed unrestricted access to the market of the Communities. In addition, customs duties and quantitative restrictions on imports as well as measures with equivalent effect had been eliminated as from 1 July 1977. There were only a few temporary exceptions from that general principle: until the end of 1979 at the latest, imports of certain products - refined petroleum products, certain cotton fabrics, phosphate fertilizers, cotton yarn, aluminium - were subject to a ceiling system. Although no ceilings had been fixed in respect of some of those products, the EEC reserved the right to introduce them. In 1976, the proportion of non-agricultural products in EEC imports from the four countries of the Machrek had been approximately 86 per cent for Egypt, 97 per cent for Jordan, 98 per cent for Syria and 92 per cent for Lebanon.

[1] L/4558, L/4559, L/4560

On the agricultural side, EEC imports from those four countries enjoyed tariff concessions varying between 40 and 80 per cent. Taking into account the specific characteristics of agriculture, the major part of those products - namely 71 per cent for Egypt, 94 per cent for Jordan, 78 per cent for Syria and 89 per cent for Lebanon - were admitted to the EEC either duty free or subject to reduced duties, with certain special provisions such as quotas, import calendars, observance of the rules laid down under the common agricultural policy, safeguard clauses. Taking into account the current level of development and economic development needs of those four countries, and likewise the need to ensure a better balance in their trade with the EC, the Agreements did not at present comprise any reciprocal free-trade obligation. Exports by the Communities to those countries would enjoy most-favoured-nation treatment, although exceptions could nevertheless be provided in favour of developing countries. The four countries of the Machrek undertook to maintain vis-à-vis the EEC the régime existing at the date of entry into force of the Interim Agreements, while retaining the possibility of strengthening their customs protection to the extent necessary for their industrialization and development needs. The Agreements were therefore consonant with the spirit and the letter of Part IV of the General Agreement. Nevertheless, trade liberalization was the ultimate objective of the Agreements. The measures that could be envisaged in that sense would have to be re-examined when the gap between levels of development had narrowed.

6. In conclusion, the spokesman for the EC underlined that his authorities were convinced that the objectives of economic development and more balanced trade relations, which the parties had set themselves in the Agreements, were fully in line with the attainment of the objectives underlying the GATT and motivating action by the CONTRACTING PARTIES, and that the provisions established to that end were consistent with the provisions of the General Agreement. The EC were accordingly requesting the CONTRACTING PARTIES to examine the Agreements as such, on their own merits, having regard to the objectives as a whole of the General Agreement, and as a positive contribution to the solution of development problems.

7. Associating himself with the remarks made by the spokesman for the EC, the representative of Egypt stated that the four Co-operation Agreements between the EC and Jordan, Lebanon, Syria and Egypt respectively, had the objective of achieving broad co-operation and fostering a strengthening of relations between the EC and these Machrek countries. The Agreements constituted pillars of continuous co-operation between the partners, historically, contemporaneously and otherwise, and set out the arrangements for comprehensive co-operation between the parties. The Agreements thus fulfilled the intention written into earlier arrangements which had anticipated or looked forward to the conclusion of new agreements on a broader basis.

8. As stated in Article I of each of the four Agreements, the objective was to promote trade between the parties, taking account of their respective levels of development and of the need to ensure a better balance in their trade, with a view to increasing the rate of growth of Jordan's, Syria's, Lebanon's and Egypt's trade and improving the conditions of access for their products to the market of the EEC.

9. The Agreements were of indeterminate duration with provisions for general review, the first such review to be made in 1979. Pending completion of the procedures for ratification of the Co-operation Agreements, their trade provisions had been given advance implementation with effect from 1 July 1977 by the conclusion of the four Interim Agreements under examination.

10. He said that these Agreements were entirely consistent with the objectives and the relevant provisions of the General Agreement taken as a whole. Each Agreement constituted a positive contribution to solving the economic development problems of one of the four developing countries, including Egypt. As a contracting party to GATT, Egypt fully intended to observe the rules of the General Agreement. The fact that Egypt was not obliged to grant preferences to the EEC was in compliance with the spirit and letter of Part IV of the General Agreement.

11. One member of the Working Party said that the Agreement represented the latest in a long line of preferential arrangements that had been examined in GATT. He noted that the Agreement was almost identical with those between the EEC and Tunisia, Algeria and Morocco respectively, which had been presented by the parties to those earlier agreements as a new model for such arrangements. His Government found some aspects of the Agreement commendable, notably in respect to the relationship between developed and developing countries. He welcomed the absence of reverse preferences to be granted by the latter and expressed support for the objective of the Agreement, as set out in Article 1. Nevertheless, other aspects of the Agreement were a cause of concern to his authorities, who considered that the arrangement would have to be kept under continuous scrutiny in GATT. In particular, the rules of origin appeared to be more stringent than in some other agreements and more restrictive than would be required to carry out the aims of the Agreement. He said that Egyptian importers would be obliged to source from EEC rather than from possibly less costly suppliers elsewhere, resulting in a drain of foreign exchange in Egypt. He asked that the impact of these rules of origin on third countries' trade be included in the parties' first biennial report to the CONTRACTING PARTIES on the operation of the Agreement. He said that this Government expected that the European Communities would be prepared to seek appropriate solutions whenever the preferences granted to Egypt under the Agreement caused difficulties to his country's trade interests.

12. One member of the Working Party noted that the Agreement was basically aimed at the economic development of Egypt. Noting the traditional links between the EEC and that country, he expressed his authorities' sympathy with the general objectives of the Agreement. He said, however, that certain aspects of the Agreement raised questions. Although Article XXIV of the

General Agreement referred to the elimination of duties and other restrictive regulations of commerce, the Agreement did not provide for reciprocal concessions. Moreover, he did not share the view that Part IV of the General Agreement took precedence over Article XXIV. He said that in any event, Part IV did not allow for a selective application to some developing countries but not to others. He noted gaps in the trade coverage under the Agreement, and pointed out in this connexion that agricultural exports to the EEC were limited and that some of these items were excluded altogether. He expressed the view that the rules of origin were extremely restrictive and that the improvement of economic development was different from the deflection of trade. He agreed that Egyptian importers would have little sourcing choice when importing component parts for assembly and eventual export as manufactured products to the EEC.

13. Sharing the views of the two previous speakers, one member of the Working Party recalled his delegation's viewpoint in respect to the similar Agreements between the EEC and Tunisia, Algeria and Morocco respectively. When those earlier agreements had been examined in GATT, his delegation had questioned whether they were compatible with Article XXIV:8, which stipulates that duties and other restrictive regulations of commerce were to be eliminated on substantially all the parties' trade in a free-trade area. He said that although the parties considered the present Agreement compatible with the letter and spirit of Part IV of the General Agreement, his view was that the Agreement was a preferential one, especially as to the selective application to some developing countries. Finally he requested the parties to submit their report on the implementation of the Agreement biennially.

14. One member of the Working Party said that while his authorities sympathized with the economic development objectives of the Agreement, certain aspects, and in particular those related to agriculture, were a cause of concern. He noted the absence of a plan and schedule for the elimination of duties and other restrictive regulations of commerce on substantially all the parties' mutual trade. He also called attention to the fact that they had not sought a waiver for the Agreement on the grounds that it conformed to the spirit and letter of Part IV of the General Agreement. He shared the view that the parties should report biennially in GATT on the operation of the Agreement.

15. The spokesman for the EC expressed satisfaction at the support which had been shown for the aims of the Agreement, and said that the EC was prepared to furnish all appropriate information on its implementation, in accordance with the GATT procedure for examination of biennial reports on regional agreements. He recalled the elements which had been mentioned in his introductory statement and included in paragraphs 5 and 6 of this report, concerning, on the one hand, the trade coverage of the Agreement and, on the other, the consistency of the Agreement with the relevant provisions and the objectives of the GATT. As regards the possibility of consultations with the contracting parties concerning the incidence of the Agreement on their trade interests, which had been mentioned by some members of the Working Party, the spokesman for the EC stated that nothing prevented these countries from invoking the relevant provisions of the General Agreement, such as Articles XXII and XXIII.

16. The representative of Egypt said that his Government was also prepared to enter into consultations under Articles XXII and XXIII should the need arise.

17. After the general discussion set out above, the Working Party proceeded to an examination of the Agreement, based on the questions and replies on more specific matters, as reproduced in document L/4640. The main points made during the discussion are set out below.

APPLICABILITY OF PART IV OF THE GENERAL AGREEMENT

18. One member of the Working Party referred to the replies to questions 2 and 3 and recalled his earlier statement that he did not share the view that Part IV took precedence over Article XXIV of the General Agreement. He said that selective application of Part IV was tantamount to discriminating against some developing countries in favour of others, while Part IV had been drawn up on an m.f.n. basis for all developing countries. He also said that Article XXIV envisaged reciprocal rights and obligations in a free-trade area, and raised the question whether it could be applied to only one party while Part IV was applied to the other.

19. Other members of the Working Party shared the view that the Agreement was preferential.

20. The spokesman for the EC referred to paragraph 5 of Article XXIV which provided that "... the provisions of this Agreement shall not prevent ..." the achievement of the objectives of this Article. Recognition of the right for Egypt, taking account of her current development requirements, not to undertake, during the first stage, as far as imports from the Community were concerned, obligations corresponding to the commitments undertaken by the Community, was consistent with the spirit and letter of Part IV of the General Agreement. The provisions of Article XXIV remained fully valid as far as the Community was concerned, because the Community, as early as 1 July 1977, had eliminated duties and other restrictive regulations of commerce with respect to substantially all its trade with Egypt.

21. The representative of Egypt shared the point of view expressed by the spokesman for the EC, and drew attention to the provisions of Article XXXVI:8 as support for the argument that developed countries should not expect reciprocity from developing countries.

22. With respect to Article XXXVI:8, one member of the Working Party called attention to the interpretative note and to the limited application of that provision to certain GATT Articles, with the exclusion of Article XXIV.

23. Another member of the Working Party pointed out that Article XXXVI:8 implied an m.f.n. application of concessions to developing countries.

RULES OF ORIGIN

24. One member of the Working Party referred to the reply to Question 5 and enquired as to the "objective criteria" on which the parties had based the rules of origin with respect to individual products. He said that the local content requirement appeared unduly high for a number of products, ranging from 60 per cent to 75 per cent for some items and even higher in others. His authorities were concerned about the harmful effect that this could have on third countries' trade with Egypt. In particular, he cited the case of Egyptian manufacturers of intermediate products, who would tend to source sub-assembly components from within the EEC in order to benefit from the provisions of the Agreement upon re-export to the EEC. As an example, he cited the electronic equipment under CCCN heading 85.15, where the local content requirement for transistors was 97 per cent of the value of the finished product. He enquired as to how such percentages compared with those in the rules of origin in the EEC's scheme under the GSP.

25. The spokesman for the EC stated that these rules were the outcome of a choice between, on the one hand, the desire to further the economic development of Egypt and, on the other, the need to avoid the customs tariff of the EEC being circumvented. The parties did not consider that the rules of origin were particularly restrictive. Quite obviously, these rules of origin were justified by the need to ensure that the parties had the benefit of the tariff and quota dismantlement under the Agreement, which resulted in protection being reduced within the EEC. He noted that, while the General Agreement provided for rules of origin, it did not define any criteria in regard to them. Rules of origin could differ according to the case, consistently with the economic and commercial requirements pertaining to each individual context. With regard to the legal content requirement, he said that the rules of origin had not been set up irrevocably and that they might be modified in the future so as to adapt to the changed economic and commercial context. He added that the percentages for specific items reflected the need to have the same rules in parallel agreements.

26. Another member of the Working Party expressed the view that a free-trade arrangement would not be harmed by more liberal rules of origin, and cited the simple 50 per cent level in the case of the Australia-Papua New Guinea Agreement that had been examined in GATT. He asked about the particular economic circumstances which might influence the modification of the rules of origin under the present Agreement.

27. The spokesman for the EC replied that it was not relevant to attempt to compare rules of origin which applied in different economic and commercial contexts. The rules of origin of the Agreement could be changed in the future in order to reflect changed circumstances.

AGRICULTURE

28. One member of the Working Party called attention to the joint declaration by the parties on agricultural products and enquired as to their present evaluation of the possible future scope of an expansion of their trade in those products. He also sought information on the types of measures that the parties might contemplate using for this expansion, and asked about the reviews that the parties intended to conduct with regard to their mutual trade.

29. The spokesman for the EC noted that the parties' trade in agricultural products was covered by Articles 10-15 of the Agreement and recalled the high percentage (71 per cent) of Egyptian exports in this sector that benefited from lowered or zero EEC duties. As for the future expansion of the parties' agricultural trade and the measures that might be adopted for this purpose, he said that the first review in 1979 and the succeeding reviews in 1984 and at future five-year intervals would enable the parties to make such decisions in the light of experience. He added that the parties had no preconceived notions as to the types of measures that might be adopted, and that the ultimate goal would continue to be the total liberation of trade between the parties.

SAFEGUARDS

30. One member of the Working Party asked why the parties had not referred to Article XIX of the General Agreement when dealing with the issue of safeguard measures in Articles 26 and 27 of the Agreement. He also enquired as to how they would go about selecting measures that would least disturb the functioning of the Agreement, as provided in Article 27(2). In addition, he asked whether a party to the Agreement could extend more favourable treatment to the other party than to third countries when taking safeguard measures.

31. The spokesman for the EC said that Articles 26 and 27 of the Agreement referred to safeguard measures that the parties might take with respect to their reciprocal trade. Any measures taken with respect to third countries would be in accordance with the relevant provisions of the General Agreement. He called attention to the resemblance between Articles 26 and 27 and Article XIX of the General Agreement. He added that the parties would engage in consultations in order to select safeguard measures that, in a specific situation, would least disturb the functioning of the Agreement.

32. With regard to safeguard measures that would be the least disturbing, the representative of Egypt called attention to the limitation in Article XIX:1(a) of the General Agreement under which measures can be used "to the extent and for such time as may be necessary to prevent or remedy such injury".

OTHER ISSUES

33. One member of the Working Party sought clarification with respect to Article 22 of the Agreement, and in particular a confirmation that this did not result in the remission of corporation taxes.

34. The spokesman for the EC said that the provisions of Article 22, which could be found in all similar agreements entered into by the EC, and in Article 96 of the Treaty of Rome, were aimed at ensuring fiscal neutrality as regards trade between the parties. He added that there was no remission of corporate taxes and that Article 22 referred to "direct" or "indirect" taxation, as those terms were used in the GATT (Article III).

35. One member of the Working Party asked about the relationship between Articles XII and XVIII of the General Agreement and Article 28 of the Agreement concerning measures that might be taken for balance-of-payments reasons. In this respect he expressed the view that a country would not be expected to take balance-of-payments measures with regard to only one or several countries, but rather with regard to all other countries.

36. The spokesman for the EC replied that the provisions of Article 28 applied solely to the relations between the parties within the framework of the Agreement. Articles XII and XVIII to the General Agreement continued to apply to third countries.

CONCLUSIONS

37. There was wide sympathy in the Working Party for the view that the purposes and objectives of the Agreement also reflected those embodied in the General Agreement, including Part IV, given the historical and geographical considerations germane to Egypt's economic development and the need for better balanced economic relations, that had led to the conclusion of the Agreement. Some members of the Working Party, however, expressed the view that the concessions under the Agreement should have been extended to developing countries generally.

38. The parties to the Agreement considered that the Agreement was entirely consistent with the objectives and the relevant provisions of the General Agreement taken as a whole, and that it constituted a positive contribution to solving the economic development problems of Egypt.

39. Other members of the Working Party held the view that it was doubtful that the Agreement was entirely compatible with the requirements of the General Agreement. The Working Party noted that the parties to the Agreement were prepared, in accordance with the GATT procedure for examination of biennial reports on regional agreements, to supply all appropriate information on the implementation of the Agreement. Some of these members urged that the examination of those reports include an analysis of the impact of the rules of origin on third countries' trade.