Note on the Waivers Granted by the Contracting Parties to the Six Member Countries of the European Coal and Steel Community

Background. On 18 April 1951 Belgium, the Federal Republic of Germany, France, Luxembourg, Italy and the Netherlands concluded a Treaty constituting the European Coal and Steel Community and a Convention containing the transitional provisions. The Treaty came into force on 23 July 1952.

The purpose of the Treaty is to contribute to the economic expansion, the development of employment and the improvement of the standard of living in the participating countries through the establishment of a common market. The establishment of this market involves the abolition as between the six countries of import and export duties, and of quantitative restrictions on the movement of coal and steel within the six country Community.

The six member States of the Community are each contracting parties to GATT. They submitted to the Contracting Parties a request for a release from certain of their obligations under the GATT. This request concerned mainly the most-favoured-nation clause contained in GATT Article I, but also refers to other conflicts between the GATT and the Treaty.

Following a general discussion in plenary session (press release GATT/102) the request of the six countries for a waiver under Article XXV was considered in detail by a working party. The report of the working party, including the Decision to grant a waiver was adopted by the Contracting Parties and was transmitted to the representatives of Belgium (representing the six countries) and to a Member of the High Authority of the European Coal and Steel Community on 10 November 1952.

Principles on which the Decision to grant the Waiver has been based

In the view of the six countries, the closer integration of their economies brought about by the elimination of barriers to the free movement of coal and steel products among their territories will result in an increase in the supply of products available to outside countries and in wider opportunities for the sale of products by other contracting parties within the common market. The six countries consider that the creation of the Community will benefit not only the member States but all contracting parties. On the other hand some contracting parties have felt that the setting up of a common market would introduce uncertainties for countries which relied to a large extent on the members of the Community for vital supplies of coal and steel. Before agreeing to the
surrender of some of their rights under the GATT, these contracting parties needed definite assurances that the Community would follow a liberal policy and that their vital interests will be fully safeguarded. For this reason the objectives of the Treaty and the intentions and commitments of the Community to pursue constructive trade policies towards outside countries have been set out as an integral part of the Division, as is shown in the following extracts:

(a) "the realisation of the aims (of the Community), if accompanied by appropriate trade policies on the part of the Community, could benefit other contracting parties by increasing supplies of coal and steel products, and by providing increased markets for commodities used by the coal and steel industry and for other products."

(b) "The Community has undertaken to take account of the interests of third countries, both as consumers and as suppliers of coal and steel products, to further the development of international trade, and to ensure that equitable prices are charged by its producers in markets outside the Community."

(c) the six countries propose to harmonize their customs duties and other trade regulations applied to coal and steel products from other contracting parties upon a basis "which shall be lower and less restrictive than the general incidence of the duties and regulations of commerce" being applied to-day.

(d) "it will be necessary for the Community to avoid placing unreasonable barriers upon exports to third countries."

The Waivers Granted

1. The six countries intend to create a common market for coal, iron ore and scrap iron by 10 February 1953, and for steel by 10 April 1953. In order to achieve this the six countries will, under the terms of the Treaty, be free to eliminate all import and export duties and other charges between themselves. But since they are not required to extend these exemptions from duties to other contracting parties, the Treaty is in conflict with GATT Article I, most-favoured-nation treatment. The six countries therefore require - and have been granted - a waiver from the obligations of Article I:1.

(There are special provisions which concern import of coal and steel into Italy and special arrangements concerning exports of coal and steel products from France to Algeria.)
2. The six countries (except in the special case of Belgium) under the terms of the Treaty intend to eliminate quantitative restrictions on the movement of coal and steel within the Community, to be effective on the date fixed for the creation of the common market.

As the six countries are not required to grant the same privileges to coal and steel products imported from other GATT contracting parties, the Treaty is in conflict with GATT Article XIII: (1). The six countries therefore require - and have been granted - the necessary waiver.

3. The Convention containing the transitional provisions permits the three Benelux countries to establish tariff quotas for steel imports during a transitional period, to be followed by a subsequent increase in the present tariffs on steel applied by the Benelux countries, when the tariff quotas have been eliminated. (This is, however, an element in the general lowering of tariffs by the Community, as a whole.)

Both the tariff quotas when in operation and the subsequent increases in duties would involve modifications of concessions contained in the GATT Schedules. The necessary waiver has therefore been granted.

4. The Treaty makes it possible for the Belgian Government to separate the Belgian coal market from the common market, as a temporary measure during the transitional period. These separation measures, which would take the form of quantitative import restrictions would be in conflict with GATT obligations, and the necessary waiver has been granted.

Reports

From the date of the creation of the common market for coal products and until the end of the transitional period, the six countries will submit annual reports to the Contracting Parties on the progress towards the full application of the Treaty.