GENERAL AGREEMENT ON TARIFFS AND TRADE

Informal Note for Press Correspondents on the Agenda Item concerning the European Coal and Steel Community

REQUEST FOR WAIVERS

1. On 13 April 1951 the governments of Belgium, the Federal Republic of Germany, France, Luxembourg, Italy and the Netherlands, concluded a Treaty constituting the European Coal and Steel Community (ECSC), and a Convention containing the transitional provisions. The Treaty establishing the ECSC came into force on 23 July 1952.

2. In accordance with the terms of the Convention, the six member countries submitted, through the Netherlands member, to the GATT Ad Hoc Committee on Intersessional Business, early in September 1952, a request for a release from certain of their obligations under the GATT. This request concerns mainly the most-favoured-nation clause contained in Article I of GATT, but also refers to other conflicts between the GATT and the Treaty.

SCOPE OF WAIVERS REQUESTED

3. The scope of the waivers which will be required is a matter of some legal complexity. It will certainly be examined very carefully during the current Session. What follows is therefore only a general indication of some of the main points on which the obligations assumed by the six member countries in the ECSC Treaty and Convention would run counter to the obligations which are contained in the provisions of the GATT.

(a) Waivers of most-favoured-nation treatment in tariff matters

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 GATT CONTRACTING PARTIES, the Treaty is in conflict with GATT Article I, most-favoured-nation treatment.

(b) Extension of preferential treatment granted by non-European territories to metropolitan territories

Under the ECSC Treaty each member is to extend to the other members "the preferential measures which it enjoys with respect to coal and steel in the non-European territories subject to its jurisdiction".

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At present the waiver required would concern only French non-European territories, and the effect of the waiver would be to extend the preferences which are granted to-day to French coal and steel products when exported from France to a number of territories in the French Union, to similar products originating in the other five countries. An extension of preferential treatment would be in conflict with GATT Article I (4).

(c) Waiver of the Rule of Non-discrimination as regards Quantitative Restrictions

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 ECSC 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).

(d) Temporary separation of the Belgian Coal Market

The ECSC Treaty makes it possible for the Belgian Government to separate the Belgian coal market from the common market, as a temporary measure. These separation measures, which would take the form of quantitative import restrictions would be in conflict with the prohibition of quantitative restrictions in GATT Article XI (1) and they might run counter to other GATT provisions.

(e) Temporary System of Tariff Quotas

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.

Without going into the details of the mechanism of tariff quotas, it may be said that both the tariff quotas when in operation and the subsequent increases in duties would involve modifications of concessions contained in the GATT Schedules.

ASSUMPTION OF GATT OBLIGATIONS BY THE COMMUNITY

(a) Under the GATT, CONTRACTING PARTIES may take measures to safeguard their markets against dumping and certain subsidy practices. But while the GATT permits each government only to take account of the situation of its own market and of its domestic producers, the ECSC Treaty grants the Community similar powers with regard to the common market of the six countries. In other words, the Community would exercise these safeguarding rights in the same way as if the six territories constituted one territory with respect to coal and steel products.
(b) Under the terms of the ECSC Treaty there are several cases where the Community can use protective measures:

(i) Protection against Dumping and other Practices condemned by the Havana Charter

(ii) Protection against Abnormal Conditions of Competition

(iii) Protection against Abnormal Import Quantities

The extent to which these protective arrangements would be in conformity with or outside the terms of the GATT may also be examined during the Session.

REQUEST FOR WAIVERS: APPROACH OF THE SIX ECSC DELEGATIONS

The six member states of the ECSC have examined very thoroughly the most satisfactory approach towards obtaining waivers from the obligations of GATT which will enable the Community to carry out the tasks which arise under the Treaty and Convention. In view of the extent of the waivers requested and the importance of the precedent thus created, it is probable that the six delegations will propose to the CONTRACTING PARTIES a formula which would consist of two parts:

(a) a general rule defining the scope and limits of the waivers granted

(b) the immediate application of this rule to a certain number of specific cases (of the kind listed earlier in this Informal Note).