CONSULTATION UNDER ARTICLE XXII

Consultation with the European Economic Community on Coffee

DRAFT AGREED MINUTE

1. The consultation on coffee under Article XXII of the General Agreement with the European Economic Community, which was held at the request of the Government of the United Kingdom and which opened in Geneva on 13 November 1958, was resumed in Geneva on 20, 24 and 26 February 1959.

2. The European Economic Community was represented by delegates from Member States and from the Community Institutions. Other contracting parties participating in the consultations were Brazil, Dominican Republic, Haiti, India, Indonesia, the United Kingdom and the United States of America. The chair was taken at the first and third meetings by a delegate for the United Kingdom and at second meeting by a representative of the European Economic Community.

3. The consultation was carried out in the light of previous discussion within the framework of the General Agreement on the association of the overseas territories of the Six, and of discussion at the previous consultation under Article XXII.

Records of Previous Consultations

4. At the request of representatives of participating countries other than the Six, the joint memorandum presented to the Six by the Governments of Brazil, India, Indonesia and the United Kingdom for the consultations in November 1958 is attached to this document as Annex A (to be attached to final record).

5. THE COMMON EXTERNAL TARIFF

(a) Implementation of the Common Tariff

In reply to questions about the present level of duties on coffee in the Member countries representatives of the Six outlined the position since 1 January, 1959 as follows:

Spec(59)31
6. Representatives of participating countries other than the Six drew attention to the possibility of further reductions in duty in eighteen months' time which might then involve a start in discrimination against third countries in the duties of France and Germany and an increase in the discrimination against third countries in respect of the Italian duties. They further drew attention to the fact that the retention of a specific duty by Germany, even though this now had an overall ad valorem incidence of 16 per cent, was of particular hardship to low priced Robusta Coffee produced in Uganda; on this coffee the ad valorem incidence of the specific duty was approximately 32 per cent on present prices.

7. Representatives of the Six pointed out that obviously the incidence of specific duties varied with the price of products; some producers would benefit while others would not and it was not possible to satisfy mutually contradictory interests. So far as further reductions in duty were concerned, representatives of the Six pointed out that Germany's obligation had been to reduce duties from an ad valorem incidence of 26 per cent to 23.4 per cent on 1 January 1959; the reduction to an ad valorem incidence of 16 per cent on 1 January 1959 meant that Germany had met her internal legal obligation for 1959 and for several years to come and was not, therefore, legally obliged to make further reductions in eighteen months' time.
8. Representatives of participating countries other than the Six, while agreeing that though giving great cause for concern a common tariff level of 16 per cent was not the only major factor in the problem, nevertheless considered that a more acceptable method for the establishment of the common tariff would have been the use of the global weighted average which would have resulted in a rate of approximately 8 per cent. In this connexion, attention was drawn to the reduction on 1 January 1959 of the German import duty from 1.60 D.M. per kilogram to 1 D.M. per kilogram which was accompanied by an increase of the internal tax from 3 D.M. per kilogram to 3.60 D.M. per kilogram. In the view of the representatives of other participating countries, this demonstrated irrefutably that a part of the old duty had been of a fiscal nature and if the Six had been prepared to recognize the fiscal nature of the German duties and had based the common tariff on the protective element in the duties of the countries of the Six the common tariff level would have been much lower than 16 per cent.

9. Representatives of the Six could not agree the figure of 8 per cent put forward by the other participating countries. They maintained that using the criterion of arithmetical averaging of legal rates the result would have been 26 per cent, weighted averaging of legal rates on the basis of 1956 and 1957 import figures (to be attached to final record as annex B) would have resulted in 20 per cent arithmetical averaging of applied rates would have resulted in 14 per cent and the figure of 16 per cent, the common external tariff represented their calculations of a global weighted average.

**DEVELOPMENTS IN ASSOCIATED OVERSEAS TERRITORIES**

10. Representatives of participating countries other than the Six argued that the effect of the 16 per cent preference provided by the common market tariff must be to stimulate coffee production in the associated overseas territories. They pointed out that African production of coffee had quadrupled in the years since 1935 - 1939 so that Africa now exported 25 per cent of the world's consumption of coffee compared with approximately 10 per cent about fifteen-eighteen years ago; this upward
trend of production as well as an increase in acreage under cultivation was continuing and most of the increased production was destined for the Western European markets. The associated overseas territories in Africa had shared in the general African increase in production; Arabica coffee from the Belgian Congo, which was providing immediate competition to Kenya high quality and Brazilian type coffee, had accounted for a large part of the increase. While it was true to say that the principal stimulus for the increase in production had been the price obtained by coffee grown in Latin America, it was inevitable that the Treaty of Rome provisions, under which producers in the associated overseas territories were assured of preferential markets for their production, would act as a further stimulus to production. The representatives of participating countries other than the Six stressed their even greater concern with the possible application to coffee of the agricultural provisions of the Treaty of Rome, which carried with them the implication of managed markets, minimum support prices and long-term contracts.

11. Representatives of the Six expressed their full appreciation of the concern felt by other participating countries at the real and urgent problem of over-production and low consumption of coffee, but emphasized that the over-production had not come about as a result of the Treaty of Rome. The increased production of coffee in the associated overseas territories was now coming forward from plantations prepared long before the Treaty of Rome came into operation. It could not be denied that production in the associated overseas territories in Africa would increase in the future, but there were no plans for extension of acreage under production in those territories and although producers in those territories were free to switch from cocoa to coffee production it was unlikely that present-day prices for coffee would encourage them to do so. If prices were low and getting lower a 16 per cent preference margin would still return only a low price and this could not of itself act as an incentive to further production in the associated overseas territories. Representatives of the Six admitted that if prices rose
steeply a preference margin of 16 per cent would be a large advantage, but if that happened the world would have solved the problem of coffee that arose due to over-production. Even if prices remained low or went even lower, the problem of over-production might still be solved since in general lower prices led to higher consumption and there was a fairly high margin for present consumption to increase; the per capita consumption in the countries of the Six was 4 kilos for France, 5.5 for Belgium, 3 for Netherlands, 2.7 for Germany and 1.4 for Italy compared with 7.5 for the United States. As for the non-tariff-protection within the framework of the general agricultural provisions of the Rome Treaty about which other participating countries had expressed concern, the representative of France confirmed that it was, of course, within the powers of the countries of the Six to use these provisions, but he hoped that they would not be faced with the necessity to do so. France might need to support the price of coffee for the associated overseas territories by a minimum price arrangement, but he gave it as his personal opinion that the other countries of the Six would be unlikely to follow suit.

POTENTIAL DAMAGE TO THIRD COUNTRIES

12. In the view of participating countries other than the Six the incentive of a tariff preference as high as 16 per cent ad valorem would be bound to lead to further stimulation of production and to diversion of trade. As coffee exports from the associated overseas territories to the markets of the Community increased coffee from other producing territories, which would not be able to compete against the preference, would be forced out of the markets of the Six. The requirements of the countries of the Six still exceeded the production in the associated overseas territories; producers in these territories would therefore command in the markets of the Community prices 16 per cent above world prices and this must inevitably lead to diversion of trade. This price incentive in the Community would, for example, lead to diversion of exports of Belgian Congo arabica coffee from the United States which had hitherto taken the bulk of that territory's production to the markets of the Six;
such a switch might initially mean a bigger market in the United States other producing countries to supply but nevertheless damage to trade would still be done in that the producers' agents in the United States would get the benefits and not the agents in the countries of the Six. As greater supplies, which would enjoy all the benefits of the markets of the Six, became available from the over-expanding production of the associated overseas territories third country sellers would be pushed out of the markets of the Six and there would gradually be no market for this coffee elsewhere; such a situation would depress world market conditions even further. Representatives of the participating countries other than the Six acknowledged that attempts were now being made internationally (and had resulted in a preliminary agreement) by Latin American producers for the limitation of exports of coffee from French and Belgian African territories to the United States, but emphasized that these arrangements, arising from current market conditions, were for the immediate future and the other participating countries had never maintained that diversion of trade would take place immediately. In the view of other participating countries, the Six could have no possible justification for opposing the doubts in the Haberler Report that consumption of coffee in the markets of the Six would increase or its contentions that exports from third countries would be adversely affected as a result of a preference margin of 16 per cent and that the preference would be predominantly trade diverting and not trade creating.

13. Representatives of the Six agreed that the preference was intended to be of advantage to the associated overseas territories, but they could not agree that the assistance provided to these territories by the preference provisions of the Treaty of Rome would lead to diversion of trade at the expense of third countries. Other provisions of the Treaty of Rome would in their view foster imports from third countries; the Treaty of Rome would create more trade than it diverted. Furthermore, in the case of coffee the preference would be of little or no use to the producers in the associated overseas territories while world market conditions were unfavourable; only if the world market was in a
sound and healthy condition could the preference be of value.

Representatives of the Six stated that, in view of the importance which Latin American producers had attached in the international coffee discussions to the limitation of exports from the Belgian and French African territories to the United States it was abundantly clear that this limitation could not be brought about automatically by the existence of the preference. They could not accept the speculations of other participating countries that the trade of the associated overseas territories would be diverted to the markets of the Six; in their view it was equally possible that the trade of the associated overseas territories would continue to be directed towards the United States and in view of the recent moves on convertibility, Brazilian trade could be switched from the United States to Europe. A free-trade area relationship, such as would exist between the associated overseas territories and the Community, or indeed any free-trade area of similar arrangement, would almost certainly lead to some modification of existing trade channels, but this was not incompatible with the General Agreement provided that the amount of modification of distortion was smaller than the amount of trade which would be created and the complex nature of the Treaty of Rome, which embraced considerably more than tariff provisions, would be trade creating.

14. Representatives of participating countries other than the Six stated that they had never denied that there were more than tariff arrangements in the Treaty of Rome, but stressed their view that none of the other Treaty provisions relating to coffee could nullify the diversion of trade that must come about as the result of the preference. They drew attention to the stabilization funds derived from export duties and supplemented from national producers' funds, which operated in the French overseas territories and stressed that the existence of these and other arrangements in the associated overseas territories increased their concern at the possibility of minimum price arrangements not only in France but in all the markets of the Six and at the possibility of managed markets and export promotion schemes for the stimulation of exports from the associated overseas territories. The representatives of
other participating countries requested the Six to make available on a continuing basis information about the operation of price supports and stabilization arrangements, for information on the operations of the Bureau de Café Indigene in the Belgian Congo and whether the jumelage system, whereby the right to export coffee to France was dependent on the export of a certain amount of coffee elsewhere, was still in operation in the French overseas territories.

15. Representatives of the Six stated that the primary aim of the Bureau de Café Indigene in Ruanda Urundi was not the stabilization of prices but the improvement of the quality of the coffee produced in that territory; they undertook to supply further details in writing to the other participating countries. The stabilization funds in the French territories were established to avoid the consequences to producers of price fluctuations. Representatives of the Six undertook to transmit the request of other participating countries for further information on these and other points to the authorities of the Community, but they could not be certain that the request would be granted. The countries of the Six had undertaken under Article XXIV of the General Agreement to supply information on the Community Institutions and under Article XXII on the implementation of the Treaty of Rome. It did not, however, follow from these undertakings that the countries of the Six were obliged to supply all kinds of information on any measures which were remote from the implementation of the Treaty of Rome.

CONCLUSIONS

(a) Views of the Participating Countries other than the Six

16. Representatives of participating countries other than the Six, while that it was not yet possible to assess damage by statistics, nevertheless stressed their conviction that the preference and other provisions of the Treaty of Rome were already causing damage to the coffee trade of third countries and that this damage would continue to grow. They expressed their acute disappointment that the consultations had not resulted in practical solutions, but they would
continue to hope that there would be new possibilities of understanding between the two sides and that some means would be devised of dealing with the problem so that third countries would have some assurance that their legitimate interests would be protected. They expressed their sincere hope that when the details of the consultations were reported to the Council of the Community, the Council would decide that some action was called for on coffee. Meanwhile, the outcome of the consultations would be reported to their Governments who would press for a solution to the problems with all the means at their disposal.

(b) Views of the Six

17. Representatives of the Six said that in the consultation they could only deal with specific cases of damage which might arise. They recognized the grave concern of the other participating countries about the future of their coffee exports, but no evidence had been produced by these countries of damage at present being suffered and they did not believe that damage would be suffered. Representatives of the Six said they were not disappointed in the discussion though they had hoped that the other participating countries would bring more concrete facts to support their arguments. They felt, however, that the examination of the present position and of the reasons for the apprehensions for the future on the part of the other participating countries had been useful; everything that had been said during the course of the consultations would be fully and faithfully conveyed to the Council of the Community.