CONSULTATIONS UNDER ARTICLE XXII

Consultation with the European Economic Community on Coffee

Draft Agreed Minute

1. The consultations on coffee under Article XXII of the General Agreement with the Member States of the European Economic Community, which were held at the request of the United Kingdom and which opened in Geneva on 13 November 1958, were resumed in Geneva on 20, 24 and 26 February 1959. This minute relates to the February consultation only.

2. In addition to the Member States of the European Economic Community the following other contracting parties participated in the consultations: Brazil, the Dominican Republic, Haiti, India, Indonesia, the United Kingdom and the United States of America.¹ The Chair was taken alternatively by a representative of participating countries other than the Six and by a representative of the Six.

3. The discussion was carried out in the light of data and discussion to be found in Addendum 2 to L/805, the statistics furnished by the GATT secretariat (attached herewith as Addendum I), the discussions which had taken place in the previous consultation under Article XXII and various memoranda (i.e., the memorandum submitted by the Governments of Brazil, India, Indonesia and the United Kingdom (attached herewith as Addendum II) and the reply prepared by representatives of the Six (attached herewith as Addendum III)).

¹ With reference to the status of the United States see paragraph 4 of the report on bananas (document Spec(59)66) and its annexed declaration by the Six.
COMMON EXTERNAL TARIFF

(a) Implementation of the Common Tariff

4. Representatives of the Six described the tariff measures taken by the Member States of the EEC since the last consultation. (The following table shows the position before and after 1 January 1959.)

Mention was made of the decision taken by the Member States on 3 December 1958. (See GATT document L/954, dated 13 January 1959.)

<table>
<thead>
<tr>
<th>Tariff applicable to</th>
<th>Benelux</th>
<th>France</th>
<th>Federal Republic of Germany</th>
<th>Italy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Member States of EEC</td>
<td>Before 1.1.59</td>
<td>0</td>
<td>20</td>
<td>1.60 DM</td>
</tr>
<tr>
<td></td>
<td>After 1.1.59</td>
<td>0</td>
<td>18</td>
<td>1 DM</td>
</tr>
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<table>
<thead>
<tr>
<th>Tariff applicable to AOT's</th>
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<th>France</th>
<th>Federal Republic of Germany</th>
<th>Italy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before 1.1.59</td>
<td>0</td>
<td>0</td>
<td>1.60 DM</td>
<td>65 lire</td>
</tr>
<tr>
<td>After 1.1.59</td>
<td>0</td>
<td>0</td>
<td>1 DM</td>
<td>58 lire</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Tariff applicable to third countries</th>
<th>Benelux</th>
<th>France</th>
<th>Federal Republic of Germany</th>
<th>Italy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before 1.1.59</td>
<td>0</td>
<td>20</td>
<td>1.60 DM</td>
<td>65 lire</td>
</tr>
<tr>
<td>After 1.1.59</td>
<td>0</td>
<td>18</td>
<td>1 DM</td>
<td>65 lire</td>
</tr>
</tbody>
</table>

It will be noted:

1. that tariff reductions in France and the Federal Republic of Germany apply to all imports irrespective of origin;

2. that in Italy the reduction of 10 per cent has not been extended to third countries because the above-mentioned decision of 3 December does not apply where tariffs are already lower than the general external tariff; and

3. that the specific German tariff of 1 DM per kg applicable as from 1 January 1959 is equivalent to the general external tariff, i.e. of 16 per cent based on the average value of imports in 1956 (see L/805/Add.2, page 1).
5. 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.

6. The representative of the Six pointed out that the time-table of tariff reductions among the Member States of the Community had been specifically laid down in the Treaty. Article 14(2)(a) provided that a second reduction should be made eighteen months after the first, and Article 14(3), provided that each Member State should reduce its tariffs as a whole so that total receipts are reduced by 10 per cent, the reduction on each product being equal to at least 5 per cent of the basic tariff. The next reduction was thus due on 1 July 1960. Inasmuch as the Federal Republic of Germany had decided to apply as from 1 January 1959 a tariff equivalent to the general external tariff rate it had thereby already fulfilled its obligations under the above provisions.

7. The representative of the Six then pointed out that obviously the incidence of specific duties varied with the price of the product. Even before the decision to apply a uniform tariff of 1 DM on all coffee imports, arabica coffees already enjoyed a definite advantage on the German market, and that advantage had increased since 1 January because taxation was the same for both arabica and robusta coffees, but proportionately heavier for robustas which were cheaper. He added that in comparison with the consumption taxes, the tariff of 1 DM represented a trifling proportion of the total charges on coffee.

(b) Assessment of the Common Tariff

8. Representatives of participating countries other than the Six considered that a more acceptable method for the establishment of the common tariff would have been the use of weighted average which would have resulted in a rate of
approximately 8 per cent for third country suppliers taken as a whole and of
2.8 per cent in respect of Brazilian coffee only. Furthermore, attention was
drawn to the reduction on 1 January 1959 of the German duty from 1.60 DM per
kilogram to 1 DM per kilogram which was accompanied by an increase of the
internal tax from 3 DM per kilogram to 3.60 DM 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 element in their coffee duties
and had based the common tariff on the protective element only in the duties
of the countries of the Six the common tariff level would have been much lower
than 16 per cent.

9. The representative of the Six pointed out that their own calculations
produced results quite different from those put forward by some third countries,
in particular the figure of 8 per cent. According to their calculations, the
arithmetical average of the legal rates came to 26 per cent and the weighted
average to 20 per cent on the basis of 1956 and 1957 imports. Worked out in
the same way the rates actually applied worked out for the two years in question
at 14 and 16 per cent respectively, which was precisely the rate of the general
external tariff. However, he said, it would be rather futile, in their con-
sultations, to try to work out how much of the duty in each country was really
tax and how much protection, and the fact that a country did not produce coffee
was no proof that its duty on coffee was not a protective duty. Finally, if
a country reduced its import duty but at the same time increased its excise
duty on a product, that did not necessarily mean that the reduction was a tax
reduction.

GENERAL DEVELOPMENTS IN PRODUCTION AND CONSUMPTION

10. Representatives of participating countries other than the Six argued that
the effect of the 16 per cent preference provided by the common 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. 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 and other high quality type coffee, had accounted for a large part of the increase.

While it was true to say that an important stimulus for the increase in production had been the good prices obtained by coffee in recent years, 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. There was no evidence that prices had yet fallen to a level which made African production uneconomic.

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 to provide non-tariff preferences for the AOT's and thus further stimulate their production.

11. Representatives of the Six said that they fully appreciated the concern felt by the countries participating in the consultation at the real and urgent problem of over-production but that they had the same problem and the Rome Treaty could not be held responsible for over-production. They agreed that African coffee-production had increased considerably during the last few decades but pointed out that that increase had been general and had not been limited to associated territories. While it was true that the available information suggested further increases in the years to come, the same applied to all African coffee-producing territories and therefore the increases could not be attributed to the Rome Treaty. As regards French overseas territories, although complete and final statistics for 1958 were not yet available, the figures would indicate that production had been close to that of 1957.

<table>
<thead>
<tr>
<th></th>
<th>Togoland</th>
<th>Ivory Coast</th>
<th>Cameroons</th>
<th>Madagascar</th>
<th>French Equatorial Africa</th>
</tr>
</thead>
<tbody>
<tr>
<td>1956</td>
<td>5,500</td>
<td>89,000</td>
<td>16,000</td>
<td>36,000</td>
<td>5,000</td>
</tr>
<tr>
<td>1957</td>
<td>4,000</td>
<td>78,000</td>
<td>16,000</td>
<td>32,000</td>
<td>4,000</td>
</tr>
<tr>
<td>1958</td>
<td>5,900</td>
<td>86,000</td>
<td>25,000</td>
<td>86,000(sic)</td>
<td>5,000</td>
</tr>
</tbody>
</table>
Belgian Congo production had followed the general trend, rising from 17,000 tons (1934-1938 average) to more than 60,000 tons (1956-1957 average). Only one-third of that was arabica from old native plantations in Ruanda-Urundi, the other two-thirds being robustas from newer European and native plantations.

12. The representative of the Six pointed out that the producer in these associated territories, no doubt like most producers, was generally much less interested in long-term benefits yielding no immediate profit than in prompt returns. That view, they felt, was confirmed by the example of the Brazilian producers, who if they had really had an eye to the future would hardly have planted such vast areas to coffee following the high prices of 1954.

13. The representative of the Six then showed that the return to the producer depended on many factors, of which the world market position was decisive while the tariff preference was of negligible importance. In that connexion, if the point of view of those who argued that the preference had a clearly defined, almost mathematical, effect were accepted, then the lower the price, as at the present time, the less the advantage, and conversely, the higher the price the greater the preference, but at the same time coffee market problems would disappear.

14. So far as consumption was concerned, they said, the present prospects were favourable and the varying levels of consumption among the members of the EEC offered the prospect of an appreciable expansion of consumption, even apart from development factors inherent in the Treaty. The per capita consumption in the countries of the Six was 4 kilos for France, 5.5 for Belgium, 3 for the Netherlands, 2.7 for Germany and 1.4 for Italy compared with 7.5 for the United States.

15. Finally, as to the agricultural provisions of the Treaty regarding which some third countries had expressed concern the representatives of the Six observed that the fact that France made use of such measures within the franc zone in order to support the price of certain products did not mean that similar measures would be employed within the framework of the Community.
ACTUAL DAMAGE TO THIRD COUNTRIES

16. Representatives of participating countries other than the Six said that, while it was not possible as yet to provide statistical evidence of actual damage, they held the view that on the psychological plane it was already occurring as their producers were being discouraged by the prospect of being forced out of their markets in the Community. Moreover, the prospect of cheaper supplies from AOT sources was already encouraging importers in the Community to examine the possibility of drawing more of their supplies from these sources. In that connexion, attention was drawn to the fact that there had been large percentage increases in the imports from the AOT's by France, Italy and Belgium in 1958.

17. Representatives of the Six noted that it was not possible at present to prove that damage had been sustained and that the representatives of certain third countries considered that the present damage would appear to be of a psychological nature. They recalled that, during the previous consultation, representatives of certain third countries had pointed out that certain producing countries had been obliged to revise their production plans as a result of the Treaty of Rome. Representatives of the Six recalled that they had at the time expressed the hope that they would receive details of these plans and their subsequent revision. They noted that so far no such details had been supplied to them.

POTENTIAL DAMAGE TO THIRD COUNTRIES

18. 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. 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 which would be a large part of the 16 per cent duty above world prices and this must inevitably lead to diversion of trade. This price incentive in the Community would, for example, (in the absence of special inducements to earn dollars) 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 for other producing countries to supply but nevertheless damage would still arise from such a dislocation of traditional trade channels in a variety of ways; for example, the producers' agents in the countries of the Six would lose trade while it would be different agents who would gain from increased sales in the United States. As greater supplies, which would enjoy all the benefits of the markets of the Six, became available from the ever-expanding production of the associated overseas territories third country sellers would be steadily pushed more and more out of the markets of the Six and there would be no certainty of an additional market for this coffee elsewhere; such a situation would depress world market conditions even further.

19. 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, but emphasized that these arrangements, arising from current market conditions, were to deal with an immediate problem while the diversion of trade due to the Treaty of Rome was a long-term problem. There was every reason to anticipate that the present world problems of coffee would be solved so that prices would be back to a remunerative level in a few years. But the Treaty of Rome would still then be in existence and, as representatives of the Six had admitted, the 16 per cent preference would then be a major stimulus to production in the AOT's. So much additional coffee might then come forward as to produce a renewal of the world coffee crisis. This showed that the difficulties arising from the Treaty of Rome must be dealt with before a final long-term solution of world coffee problems could be found. It did not seem to them that the sympathetic attitude which representatives of the Six had showed towards world coffee problems could be reconciled with their action on coffee under the Treaty of Rome.

20. 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 (paragraph 338) nor its
firm conclusion 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 (paragraph 337).

21. Representatives of the Six pointed out that in the first place the discussion of forecasts for the somewhat remote future, which had taken up most of the three meetings of the present consultation on coffee, had at least succeeded in showing that no damage had been incurred at the present time. Insofar as possible future damage was concerned, the Six did not feel that the advantages granted to the AOT's under the terms of the Treaty would lead to any diversion of trade since these advantages would be unlikely to influence producers as long as the world coffee situation remained in its present unsatisfactory state. In the opinion of the Six, the Rome Treaty did in fact contain a number of somewhat complicated provisions far exceeding mere tariff provisions. These provisions, while having a positive bearing on the development of international trade, would tend to favour the import trade of third countries, thus bringing into existence new patterns of trade rather than modifying present ones. The Six considered it possible and even probable that the establishment of a free trade area between the AOT's and the Member Countries of the EEC, which would result from the application of the Rome Treaty, would involve certain modifications to trade but the question was not to determine whether or not there had been any modification to trade but whether any damage had resulted from such modification. The representatives of the Six pointed out that such modifications were in no way incompatible with the General Agreement since the volume of new trade would exceed that of modified trade.

22. After noting that, in the view of certain third countries, the Treaty would tend to divert coffee exports of the AOT's, of which a large proportion now went to the United States, to the EEC, the representatives of the Six pointed out that exports of African coffee to the United States depended upon the qualities of this coffee as well as upon particular requirements and that the present currents of trade could thus very well continue unchanged or even
be strengthened. They nevertheless pointed out that, in cases where the present exports to the United States might be diverted to the countries of the EEC, the market thus made available would be open to coffee from other regions.

23. Insofar as the reference to the attitude of the Six towards world coffee problems was concerned, representatives of the Six maintained that their attitude of apprehension in this matter was based on the conviction that problems of stabilization of basic commodities were much more important than tariff rates. That also explained why the Six had expressed their disappointment that certain important countries had not as yet seen fit to assist in finding a constructive solution to these questions at the international level.

24. With reference to the passage quoted from the Haberler Report, representatives of the Six pointed out that, generally speaking, the opinions expressed in this document were very subtle and cautious and referred to very specific eventualities and that, in the case under consideration, the line of reasoning referred to would only apply to a classical type of free trade area existing between countries of similar economic and production structure. They added that the Six considered that the under-developed associated countries would develop more rapidly as a result of a free trade area of this kind but that their development would in no way be detrimental to other under-developed countries.

25. 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. Representatives of participating countries other than the Six said that in their view since representatives of the Six were prepared to admit that the new tariff would raise prices above world prices, that the preference would be of benefit to the AOT's and that the arrangements would stimulate production, the Six had no logical grounds for denying that there would be an increasing measure of trade diversion to the detriment of third countries. They also noted with concern that representatives of the Six had not been prepared to give any assurances that third countries would be given access to a fair share of any increase in consumption of the Community.
26. Representatives of participating countries other than the Six 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 l'Office du Café du Ruanda-Urandi 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.

27. The representatives of the Six pointed out in the first place that the part played by the stabilization funds in the French overseas territories was familiar to most people and that, furthermore, similar efforts undertaken in a large number of producing countries had achieved their purpose of protecting producers' profits against fluctuations in prices. They pointed out that the jumelage system to which reference had been made came within the very broad field of assisting exports which was undoubtedly a most interesting topic although somewhat remote from the purpose of the present consultation. They stated that they would send the competent authorities the information they had requested on this matter and that, if the representatives of third countries insisted on discussing it, the Six would be unlikely to raise any objection as long as the proposed discussion was of a general nature and applied to all producers.

28. With reference to the inability of the Community to provide any assurance as to the future growth of exports from third countries, the Six pointed out that, in stating that they would seek to apply the GATT they had made no exceptions and furthermore they had on numerous occasions expressed their desire to preserve the traditional patterns of trade.
CONCLUSIONS

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

29. Representatives of participating countries other than the Six, while agreeing 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 interests of third countries by encouraging production in the AOT's and starting the trade diversion process, and that this damage would continue to grow. Nothing that the representatives of the Six had said had refuted their arguments and indeed the representatives of the Six seemed to be prepared to accept most of the case which had been put forward, if not the final conclusions. 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

30. Representatives of the Six noted that the discussions during the present consultation had been mainly confined to the apprehensions of certain countries with regard to the manner in which the Rome Treaty might possibly affect their interests. They agreed that serious apprehensions were being nurtured in certain of these countries as to the future of their coffee export trade, but pointed out that the countries concerned had given no proof of the damage they had referred to and stated that, in their opinion, it seemed most unlikely that, if all the factors were taken into consideration, the damage in
question would occur. Representatives of the Six added that although they were not exactly disappointed with the discussions, they would have preferred the countries participating in the consultation to mention more specific instances and clearer facts. The Six nevertheless felt that the examination of the present situation and the reasons for the apprehension expressed by certain countries had allowed a useful exchange of views to take place upon the kind of damage to be feared. They agreed to send the competent authorities a precise and complete report of these exchanges of views and the discussions that took place during the consultation.