

DRAFT REPORT BY THE WORKING PARTY ON THE
BELGIAN AND LUXEMBURG REQUESTS FOR WAIVERS

Draft Section of Report

II. THE LUXEMBURG REQUEST

18. The request by the Government of Luxembourg for a waiver from the obligations of Article XI was submitted in document L/358. In the addenda to that document the Luxembourg Government gave an account of the situation of agriculture in Luxembourg and details of the 23 tariff items or sub-items to which the request relates. The Luxembourg Government considers that the need of Luxembourg's agriculture for protection is of a structural character and cannot be regarded as temporary or transitional and therefore its application is made under Article XXV:5(a) and not under the Decision of 5 March. In this connection attention was drawn to paragraph 76 in the Report of the Review Working Party which drafted the Decision of 5 March, which states that the adoption of the Decision would not preclude any contracting party from availing itself of the provisions of Article XXV:5(a) and that this procedure "might be appropriate in the case of Luxembourg whose representative submitted that the difficulties of his country could hardly be met by action under the Decision". Although the Luxembourg Government was not asking for a concurrence under the Decision of 5 March, members of the Working Party considered that it would be useful to examine the request in the first instance in the light of the criteria laid down in that Decision. The Luxembourg representative furnished orally additional information concerning the protection for agriculture and the administration of the restrictions on imports.

19. The Belgium-Luxembourg Convention of 23 May 1935 established a common regime for the regulation of imports and exports and provided, as an exception to the general rules and for the purpose of protecting the agriculture of Luxembourg, that Luxembourg would have the right to regulate unilaterally the imports of certain products across all frontiers including the common frontier with Belgium. Within the more recent Benelux arrangements Luxembourg is authorized to maintain these restrictions but the range of products is slightly extended and it is to this extended group of products that the present request for a waiver from the provisions of Article XI relates. Thus Luxembourg wishes to obtain recognition by the CONTRACTING PARTIES of the special protection which its agriculture enjoys within the Benelux customs union. The twenty-three items may be imported, whether from the partners in the customs union or from other countries, only under licence, and these licences are granted whenever supplies are required to supplement domestic production. In nearly all these products, however, Luxembourg is almost self-sufficient and in a few cases there is a small surplus for export. Because of the dependence of 20 per cent of the population on agriculture and the impossibility of competing with the agriculture of other countries, it is Luxembourg's policy to reserve the home market for domestic produce at remunerative prices and this involves the payment of consumers'

subsidies. The Luxemburg representative stated that his Government is convinced that, in view of the very small population and size of the country, this special protection does not materially affect the commercial interests of other contracting parties and that its recognition would not establish a significant precedent.

20. The representatives of Belgium and Luxemburg explained the relationship between the requests submitted by their respective Governments. A restriction on an item which appears in both requests will be maintained by Luxemburg after it has been eliminated by Belgium; while applied by Belgium it will be administered by the Belgian authorities and thereafter it will be administered in a non-discriminatory manner by Luxemburg. A restriction applied to an item which is on the Belgian list only will control importation into the whole territory of the Economic Union and when it is eliminated no restriction will remain on import into Luxemburg. In the administration of restrictions on items in the Luxemburg list only there will be no discrimination between sources of supply.

21. The Working Party considered that the arrangements for the protection of Luxemburg's agriculture are so closely associated with the protective measures which apply to the whole of the Belgo-Luxemburg Economic Union that the requests by two Governments should be examined and decisions taken by the CONTRACTING PARTIES at the same time. The Working Party felt considerable sympathy with the Luxemburg request but considered that in view of its recommendation that the Belgian request should be taken up at the Tenth Session, a decision the Luxemburg representative agreed to this proposal. Therefore the Working Party has not considered the terms and conditions on which a waiver might be granted to Luxemburg. Members of the Working Party suggested that the Luxemburg Government might be able to furnish additional information and documentation along the lines proposed in the Annex to this Report. The representative of Luxemburg said that he doubted whether there was any further information that could be given, but that his Government would consider the possibility of supplementing the information which had been submitted with the application; if further information could be supplied it would be submitted to the Executive Secretary by 1 September so that the application could be considered early at the Tenth Session.

22. The representative of Luxemburg stated that the position of his Government in relation to the signing of the Protocols amending the General Agreement is the same as that of the Government of Belgium and that, in view of the postponement in considering its request, his Government might also ask for an extension of the time-limit for signing the Protocols.

23. As in the case of the Belgian request, the Working Party wishes to record its view that while Luxemburg's application for a waiver is under consideration by the CONTRACTING PARTIES no complaint under Article XXIII concerning any of the import restrictions covered by the Luxemburg request should be considered under clause (a) of paragraph 1 of that Article.