

13 November 1958

THE ROME TREATIESThe Summing up of the Discussion by
the Chairman of the CONTRACTING PARTIES

The Chairman, summarizing the debate that had taken place, pointed to the fact that there had been general reaffirmation of the conclusions reached by the Intersessional Committee that it would be more fruitful to leave aside for the time being questions of law and debate about the compatibility of the Rome Treaty with Article XXIV of the General Agreement and, through the normal procedures of Article XXII, to direct attention to specific and practical problems affecting international trade which arose from the establishment of the European Economic Community. For this purpose the Intersessional Committee had elaborated consultative procedures for Article XXII and during the debate their recommendations, together with proposed amendments by the secretariat designed to facilitate their practical application, had been generally upheld. The representative of India, however, had suggested that it would be more convenient for distantly located contracting parties if the time-limit for the contracting party advising its desire to be joined in a consultation be extended to forty-five days rather than the thirty days proposed by the secretariat.

The CONTRACTING PARTIES thereupon approved the Intersessional Committee's recommendations on procedures for consultations under Article XXII, as set out in Section I(a) of the Intersessional Committee's report to the CONTRACTING PARTIES (L/886) with paragraph (b) thereof, as amended by the above proposal by the representative of India. In doing so, however, it was recognized that the time-limit of forty-five days for notifications of requests to be joined in any consultations would, for the consultations already initiated, run from the date of approval of the procedures.

The Chairman then referred to the point made by many delegations that the implementation of the consultation procedures under Article XXII should not necessarily be postponed until there had been actual damage, or even until action which might result in damage had been taken.

The representative of France, as spokesman of the six Member States, had pointed out that consultations should not be initiated on purely hypothetical grounds and that whatever procedures were adopted they should be generally applicable to all contracting parties and not specifically confined to the six Member States. In this connexion, the Chairman referred to the provisions of both Article XXII and the procedures the CONTRACTING PARTIES had just adopted for the implementation thereof. No reference was made in either case to "damage" as such, and the text of Article XXII merely provided that sympathetic consideration and adequate opportunity for consultations be accorded to such "representations" as might be made by any contracting party

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with respect to any matter affecting the operation of the General Agreement. The concept of a "representation" did neither prejudice the basis for a consultation nor convey the implication that any damage must necessarily be established. The representative of France, as spokesman for the six Member States, had rightly observed that, for consultations under the procedure just approved to be fruitful, problems of a practical and concrete nature and not vague apprehensions should be discussed. This did not preclude any contracting party wishing to put forward views on the effects on its trade of any possible action making representations in order that the six Member States in formulating their commercial policy could have due regard to what might be the subject of future consultations. The view had been expressed that contracting parties should be kept informed of developments in the commercial policy of the Community as it was formulated. This desire seemed legitimate if effective use were to be made of the procedures for the implementation of the provisions of Article XXII.

Many delegations had recapitulated arguments they had advanced at the Twelfth Session and related Working Parties concerning the possible protective effects of the integrated agricultural policy to be devised as opposed to what hitherto existed for the six Member States individually; the possible discriminatory use of quantitative restrictions by partner States to assist a member in balance-of-payments difficulties and the effects on the trade of certain under-developed countries of the association of the overseas territories to the EEC. These were not issues which needed further consideration at this stage in view of the general desire not to raise legal issues at this juncture.

The Chairman considered, therefore, that the CONTRACTING PARTIES should reaffirm the conclusions of the Intersessional Committee not to pursue for the present legal questions of the compatibility of the Rome Treaty with Article XXIV of the General Agreement but to defer judgment thereon and to make use of the consultation procedures on which they had just agreed to deal with specific and practical problems. Apart from formal consultations, every contracting party would have the right, under the terms of Article XXII itself, to make representations to the Community to ensure consideration of their problems.

Mr. Rattigan (Australia) considered that it would be more appropriate if a document were drawn up which formalized the position of the CONTRACTING PARTIES on these issues.

The Chairman pointed out that in any case this matter would be on the Agenda of the CONTRACTING PARTIES at the next Session. If, however, it was desired to have a document of the nature suggested by the representative of Australia, he proposed that the Drafting Group that had been established to examine the terms of reference for the Committee on the Expansion of Trade could be charged with the responsibility of preparing a draft reflecting conclusions to be drawn from the debate for submission to the CONTRACTING PARTIES.

It was so agreed.