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THE APPLICATION OF THE ROME TREATY

(Note by the GATT secretariat)

The Treaties of Rome, establishing the European Economic Community and the Atomic Energy Community, were signed on 25 March 1957, and after ratification by the governments of the six Member States in the autumn of that year, the Treaties entered into force on 1 January 1958. The first task of the Member States was to set up the common institutions. The principal organs of the European Economic Community are:

The Assembly, composed of 142 delegates from the parliaments of the Member States. This body, as a rule, takes decisions by an absolute majority of the votes cast. It exercises control over the functions of the Community and may overrule decisions by the Commission, which then has to resign.

The Council ensures the co-ordination of the general economic policies of the Member States and has a power of decision. The Council may, inter alia, request the Commission to undertake any studies which the Council finds desirable and to submit to it any appropriate proposals.

The Commission, which is the permanent executive organ of the Community, ensures the application of the provisions of the Treaty; it formulates recommendations in matters which are the subject of the Treaty. Under the conditions laid down in the Treaty it has power of decision of its own and it exercises the jurisdiction conferred on it by the Council for the implementation of the rules laid down by the latter. The Commission, headed by its President, is divided into nine technical sectors: external relations, trade and finance, the internal market, competition, social policy, agriculture, transport, overseas territories and administration. Each of these sectors has at its head a group of three to four members of the Commission, of which one is responsible for the functioning of the sector.

The Court of Justice decides, inter alia, on the interpretation of the Treaty, rules or disputes between Member States, and reviews the legality of decisions taken by the Commission or the Council. In addition, there are a number of consultative or operational bodies, among which the Economic and Social Committee, the Monetary Committee, the Transport Committee, the European Investment Bank and the Development Fund.

The following is a brief account of the activities of the Community since its inception (A) towards implementation of the Treaty and (B) in relation to third countries.

A. Implementation of the Treaty(i) Commercial Policy

Although the Treaty contains provisions enabling the Member States to reduce duties in the trade between them more rapidly than foreseen in the Mandatory Schedule, no such measures have yet been taken. The first reduction will, as provided for in the Treaty, take place on 1 January 1959, when the internal customs duties between Member States will be lowered by 10 per cent from the level at which they actually were on 1 January 1957. While later reductions will give some room for selection, the first step towards the final abolition of internal duties will extend automatically to all items. The total reduction on each item, after the first four-year period, will have to be at least 25 per cent of the basic duty, and 50 per cent after the second four-year period. The method to be employed for reductions subsequent to the first is to reduce by successive 10 per cent steps the total customs receipt in each Member State on imports coming from other Member States in 1958. The first four-year period (1 January 1958 - 1 January 1962) may be extended up to two years. The timing of reduction, both on each item and on the total level during the third and last four-year period, is yet to be determined. All duties on intra-Community trade will have to be eliminated by 1 January 1970, or at the latest by 31 December 1972 (the transitional period may not be extended beyond this date). The reduction of internal duties shall also apply to revenue duties, but these shall not be taken into account in calculating either the customs receipts or the reduction in total duties. Export duties between Member States will have to be abolished before the end of the first stage.

The lowering of internal duties in January 1959 will be accompanied by the conversion of all bilateral import quotas among Member States into global quotas. Moreover, the quotas will have to be increased by 20 per cent as compared with the level in 1958, and each individual quota by at least 10 per cent. Similar quota increases are to occur in each of the following four years. Each quota will, on 1 January 1959, have to be at least 3 per cent of the country's production of the respective commodity. These minima are to be successively raised each year and will, after the end of the second stage, equal at least 20 per cent of domestic production. All quotas will have to be abolished at the end of the transitional period.

The first operative step towards the establishment of the common external tariff will be taken only at the end of the first four-year period (though Member States are free to align their duties to the common tariff more rapidly). The Commission has been actively engaged in working out the common tariff. This tariff is not yet entirely known, but a representative of the Community stated in the GATT Intersessional Committee in April 1958, that every effort would be made to communicate the tariff to the CONTRACTING PARTIES by July 1959. Such information is indeed indispensable for the preparatory work in a new round of tariff negotiations which the GATT intends to organize in the near future. The duties in the common tariff will as a rule be the arithmetic average of the four tariffs (Benelux, France, Germany, Italy) actually applied on 1 January 1957. In certain cases commodities

are placed on separate lists indicating the upper limit of the common duties. For instance, raw materials and certain processed goods will have maximum duties of 3 and 10 per cent respectively (Lists B and C annexed to the Treaty). Certain chemicals have a maximum of 15 per cent (List D) and others of 25 per cent (List E). The maxima mentioned are in a number of cases below the present arithmetic averages. Other duties (List F) have been fixed by agreement between the Six at a specified rate and still further items (List G) are under negotiation between Member States. This List cannot be regarded as exhaustive, since each Member State may add further products to the List up to the limit of 2 per cent of the total value of its imports coming from third countries in 1956.

The adjustment of national tariffs to the common external tariff will, broadly speaking, be done by reducing by 30 per cent the difference between the rates in the national tariff and those of the common tariff at the end of both the first and the second stages, the remaining 40 per cent difference being eliminated before the expiry of the transitional period. If, however, the national rate differs by only 15 per cent in either direction from the rate in the common tariff, the latter shall already be applied at the end of the first four-year period.

(11) Agricultural Policy

The commercial policy measures mentioned above extend also to agriculture and to trade in agricultural products; but a number of such products listed in Annex II are governed by Articles 38-46 of the Treaty, which provide for a common agricultural policy. It may be noted that many of these products also figure on Lists F and G, i.e. that customs duties on those items are either fixed at rates independent of the national tariffs and, in some cases, higher than the present arithmetic average or are subject to further negotiations between the Six. It should also be observed that Annex II mentions a number of items, among which some tropical foodstuffs and beverages, which are not produced in the metropolitan territories of the Member States, but of which the Associated Overseas Territories are important producers and exporters. This implies that measures taken under the agricultural provisions of the Treaty may also be applied to such products.

The common agricultural policy will be gradually developed during the transitional period. As provided for in the Treaty, the Commission has convened a conference of the Member States with a view to comparing their agricultural policies by drawing up, in particular, a statement of their resources and needs. This conference, held at Stresa in July 1958, was attended by the Ministers of Agriculture of the Member States; the associations of producers, workers and representatives of food industries and of commerce in agricultural products in the six countries were invited as observers. The resolution of that conference was communicated to the CONTRACTING PARTIES to the General Agreement and is annexed to this note (document L/890).

(iii) Arrangements concerning the Internal Economic Policy

The Community has undertaken several investigations concerning its internal economic policy. Among these may be mentioned the working out of common rules of competition, taking into account the existing differences in national legislation. Further, the Economic and Finance Department has published the first in a series of periodic reports on economic trends in the European Economic Community countries. In the field of social policy a report on social conditions in the Community has been published and a study of the employment situation is under preparation. The Investment Fund for overseas territories will make its first grants at the end of this year. The European Investment Bank, the funds of which will be used to finance development projects in under-developed regions of the Member States, is at present organizing its activity.

B. Relations between the Community and third countries

(i) The European Free-Trade Area

Article 237 of the Treaty of Rome provides that any European State may apply for membership in the European Economic Community; so far, however, no such applications have been received. Moreover, Article 238 states that the Community may conclude with other States agreements creating an association embodying reciprocal rights and obligations. A number of European countries which, for various reasons, have not found it possible to become members of the EEC have tried to protect their trade against the possible adverse effects arising out of the tariff and quota differentiation which the EEC would bring with it, by establishing an association in the form of a free-trade area, as provided for under Article XXIV of GATT. During the past year discussions have been going on in a Ministerial Committee of the OEEC with a view to reaching agreement on the terms of such an association.

The negotiations for a free-trade area have not yet reached any definitive result; they had to face a number of practical and more general difficulties. Whereas the EEC, by assuming the form of a customs union, will have a common external tariff applied to all outside countries, the European free-trade area would allow the Member countries to retain a complete freedom of action in their tariffs and commercial policy vis-à-vis the non-Member States. Moreover, the free-trade area is contemplated as being more or less limited to trade while the EEC Treaty aims at a complete economic union implying harmonization of social, fiscal and currency policies.

In a free-trade area, only goods originating in the territories of the Member States would circulate there freely, whereas goods passing through the territory of one Member to reach that of another would pay the full duties. If, as is the case in Western Europe, customs tariffs vary substantially from one country to another, it is necessary to agree on measures to avoid deflection of trade. In the case of raw materials and semi-processed goods the problem can be solved by means of a system of certificates

of origin or the adoption of common definitions of origin; but the complications are greater in the case of manufactured goods, processed wholly or in part in one Member country from material imported from outside the free-trade area, and then exported to the territory of another Member country. Various solutions have been proposed, such as a combination of a percentage of value added by the processing and a list of transformation processes which would involve a change in the nationality of the product, a gradual harmonization of external tariffs and the levying, in certain cases, of compensatory taxes (Carli Plan).

Another central question in these discussions has been the treatment of agricultural products. The original British proposal provided for the exclusion of that trade from the arrangements. The Six and other countries stated, however, that they could not accept such limitations. Recent discussions on this matter have aimed at finding a formula for the inclusion of agricultural products in the free-trade area subject to special rules. This might take the form of an extension to the area of the agricultural provisions of the Rome Treaty, or of a confrontation of agricultural policies, or of the conclusion of special bilateral or multilateral trade agreements, or a combination of these various methods.

In principle the association would be extended to the metropolitan territories of all OEEC countries. It is, however, recognized that some of them, i.e. Greece, Turkey, Portugal, Iceland and Ireland, would require special safeguards in their dismantling of trade barriers against other OEEC countries. It has been suggested that the transitional period of these countries should be much longer than twelve-fifteen years and that the rate of reduction of tariffs should be slowed down. These discussions have also dealt with the possibilities to provide financial aid to the economic development of the countries mentioned.

(11) Relations with non-OEEC Countries

Article XXIV of GATT stipulates inter alia that countries desiring to enter into a customs union shall notify the CONTRACTING PARTIES, and shall further make available such information as these may deem appropriate. In conformity with this Article the Member States submitted the Rome Treaty to the CONTRACTING PARTIES on 17 April 1957. In order to obtain a clearer idea of the implications of the Treaty, the CONTRACTING PARTIES addressed to the Community a list of questions to which the Community's authorities replied by the end of July 1957. Moreover, the Community communicated to the CONTRACTING PARTIES a specimen common tariff covering about 60 per cent of the trade between the Community and third countries.

At the Twelfth Session of the GATT, in October-November 1957, the CONTRACTING PARTIES considered the Rome Treaty. A Committee comprising all GATT members was appointed to examine, in the light of the provisions of the Agreement, the relevant parts of the EEC Treaty and the problems likely to arise in its practical application. Such examination was to include inter alia the arrangements provided for in the Treaty with respect

to tariffs, the use of quantitative import restrictions, the trade in agricultural products and the association of overseas countries and territories. The Committee was also asked to recommend appropriate and desirable action including a determination of the means for establishing co-operation between the CONTRACTING PARTIES and the EEC.

The Committee appointed four sub-groups to examine the afore-mentioned questions. The four reports adopted on 29 November 1957 (document L/778) did not contain any definite conclusions either because the time at disposal was too short, or because the information available did not permit such conclusions. The CONTRACTING PARTIES instructed the Intersessional Committee, which exceptionally would include all contracting parties, to carry out a further examination. Because of the particular importance of the question of the association of overseas territories with the EEC, it was decided to appoint a working party which would immediately start studying the problems which such association might create for the trade of other contracting parties.

At its meeting in April 1958 the Intersessional Committee reviewed again the whole field, and considered the report by the Working Party on the association of overseas territories. As regards the last-mentioned question, most members of the Committee recognized its importance for contracting parties in the process of economic development, and considered that where problems were known to exist, realistic solutions should be sought within a multilateral framework, and that any arrangements reached should be consistent with the GATT rule of non-discrimination. The object of any such arrangements should be to prevent any significant diminution of the present export trade of third countries to the Six as a result of the association of overseas territories. They should also provide a reasonable opportunity for third countries to share in any increased demand resulting from the establishment of the Common Market.

In the light of statements made both by members of the Committee and of representatives of the EEC, the Intersessional Committee took the view that it would be more fruitful if, for the time being, attention could be directed to specific and practical problems, leaving aside questions of law and discussions about the compatibility of the Rome Treaty with Article XXIV of the General Agreement. The Committee noted that the normal procedure of the Agreement, and the techniques and traditions of the CONTRACTING PARTIES in applying them were well adapted to the handling of such problems and suggested that in the first instance the procedures of Article XXII would be most appropriate for this purpose.

To meet this objective, the Committee recommended a series of procedural arrangements to facilitate the conduct of such consultations. Under these procedures, which were later accepted by the Council and the Commission of the Community, consultations have been requested regarding the effect of the association of overseas territories on the trade of other producers and exporters of cocoa, coffee, tea, bananas, sugar and unmanufactured tobacco. In accepting these procedures, the Community stressed that it was not prepared to submit to special procedures but only to those envisaged in the General Agreement.

Consultations have been initiated in Geneva during the Thirteenth Session (October-November 1958) concerning the six products listed above. These consultations are of a multilateral character, in the sense that all countries having a substantial trade interest in the product in question are joined in the consultation with the Six. These consultations were not concluded at the end of the Thirteenth Session of the CONTRACTING PARTIES to the GATT, and it is too early to say whether this procedure will satisfy the requirements of the exporting countries.

At the Thirteenth Session, the CONTRACTING PARTIES decided to continue the arrangements adopted by their Intersessional Committee and recognized that the procedures for consultation did not apply only to problems relating to the association of overseas territories but also to any problem arising out of the Rome Treaty.

In the course of the meetings at Ministerial level at the beginning of the Thirteenth Session, the CONTRACTING PARTIES heard statements by Members of the Commission of the EEC. Mr. Ray, Member of the Commission in charge of external relations, gave definite assurances that the Community would pursue a policy of co-operation with GATT Members and would in the framing of its economic policy take into account the interests of third countries. Mr. Mansholt, Member of the Commission in charge of agricultural policy, outlined the principles underlying the agricultural policy of the Community and expressed the willingness of the Community to participate in a general confrontation of agricultural policies.

The CONTRACTING PARTIES agreed that, in view of the nature of the Rome Treaty, it was not possible, nor even desirable, to come to definite conclusions concerning this regional arrangement in its relation to the provisions of GATT, and decided to rely on the normal procedures of the GATT for conciliation and settlement of differences. The Community has confirmed its readiness to furnish information and to observe the normal GATT procedures.