

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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AGREEMENT BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND LEBANON

Draft Report of the Working Party

1. At the meeting of the Council on 5 February 1973 (C/M/84) the CONTRACTING PARTIES were informed that on 18 December 1972 the European Communities and Lebanon had signed the following instruments, copies of which were transmitted to the secretariat and circulated to contracting parties with document L/4002:
 - Agreement between the European Economic Community and the Lebanese Republic; and
 - Protocol laying down certain provisions relating to the Agreement between the European Economic Community and the Lebanese Republic consequent on the Accession of new Member States to the European Economic Community.
2. At the meeting of the Council on 28 March 1974 (C/M/94) a working party was set up with the following terms of reference:

"To examine, in the light of the relevant provisions of the General Agreement, the provisions of the Agreement between the European Economic Community and the Lebanese Republic signed on 18 December 1972; and to report to the Council." (L/4011/Rev.1).
3. The Working Party met on 11 and 13 December 1974 under the Chairmanship of Mr. L.J. Mariadason (Sri Lanka). It had available the text of the instruments cited above¹, as well as the replies by the parties to questions which had been asked by contracting parties (L/4089).

¹For convenience these instruments are referred to collectively in this document as "the Agreement".

General issues

4. The representative of the European Communities recalled that Lebanon and the EEC, in its original membership, had concluded an agreement on 18 December 1972 and had informed the contracting parties of it at the GATT Council meeting of 5 February 1973. On 6 November 1973, a Protocol to the Agreement had been signed, laying down certain provisions consequent on the accession of three new member States to the EEC. As soon as the texts of the Agreement and of the Protocol had become available in official versions, they had been notified.

The Agreement, which was similar to other agreements concluded by the EEC with Mediterranean countries, reflected the concern of the EEC to strengthen its traditional links with the Mediterranean coastal countries and likewise the declared desire of the two parties to facilitate and intensify their trade relations.

The Agreement set in motion a process aimed at elimination of obstacles to substantially all the trade between the two parties; it was consistent with the spirit and the letter of Article XXIV, paragraphs 5 to 9. In the opinion of the parties, it constituted an interim agreement within the meaning of Article XXIV:5 leading to the formation of a customs union. The Agreement set forth in detail the measures to be taken during the first stage and stipulated how the modalities for pursuing the free-trade objective were to be defined later in accordance with the provisions of the General Agreement on Tariffs and Trade, as specified in the preamble to the Agreement. The political will to achieve a free-trade area was confirmed by the provisions of Article 17:2 considered in conjunction with the Preamble.

In the view of the parties to the Agreement, the very detailed information concerning it which had been furnished to contracting parties in the replies to their questions confirmed that appreciation.

Taking into consideration the economic situation and respective level of development of the parties, the quantified data on tariff and quota disarmament confirmed the validity of the free-trade objective that they had set themselves.

5. The representative of Lebanon supported the views expressed above, noting that the Agreement was similar to those concluded by the EEC with other Mediterranean countries, which had been examined by GATT. The Agreement, which would enter into force on 1 January 1975, had as its objective the establishment of a free-trade area in accordance with Article XXIV. Moreover, it was expected that the parties to the Agreement would shortly be entering into negotiations to extend the framework of the arrangement.

6. Several other members of the Working Party supported the view that the Agreement constituted an interim agreement leading to the formation of a free-trade area and that it conformed fully to the requirements of Article XXIV.

7. One member, noting that the Agreement was between a group of contracting parties on the one hand and a non-contracting party on the other, said that the view of his authorities was not significantly different in the present case than when earlier GATT working parties were examining similar agreements. His Government had basic doubts whether the Agreement presently conformed to the requirements of Article XXIV concerning interim agreements leading to free-trade areas, and therefore whether GATT compatibility could be established at this time.

8. Several other members shared this view. One of them questioned whether Article XXIV would permit treating non-contracting parties more favourably than other contracting parties. The representative of the European Communities recalled that the GATT had in the past examined a number of Agreements between contracting parties and non-contracting parties, e.g. the Treaty of Stockholm establishing the European Free-Trade Association and the Treaty of Montevideo establishing the Latin American Free-Trade Area. The issue would in any event become less relevant as additional countries joined GATT.

9. After the general discussion set out above, the Working Party proceeded to an examination of the Agreement based on the questions and replies on more specific matters, as reproduced in document L/4089. The main points made during the discussion are summarized below.

General questions

10. One member of the Working Party said that in the view of his authorities the Agreement failed to mention specifically the objective of forming a free-trade area, and lacked a plan and schedule as required by Article XXIV:5(c) in the case of an interim agreement. There was no binding commitment in the Agreement or any indication in the answers in document L/4089 that a free-trade area would be established after the expiry of five years or in any other specified time period. His Government doubted that free-trade areas between countries of such widely differing stages of industrialization could lead to GATT-consistent agreements encompassing the elimination of substantially all trade barriers between the parties within a reasonable time period as required by Article XXIV.

11. Another member said that the purpose of Article XXIV:5(c) was to ensure that a free-trade area or customs union would in fact be formed without fail by an interim agreement leading thereto. In the absence of a plan and schedule as required by Article XXIV:7(b), he did not see how a Working Party could judge whether this would be the case. The Agreement did not cover more than a five-year period. He noted that Article 17:2 of the Agreement stated that negotiations might be opened with a view to concluding a new agreement on a wider basis, from which his authorities drew the inference that such negotiations might also not be opened. Even if the parties had a tacit understanding to the effect that such enlargement would indeed take place, this was not a satisfactory substitute for a plan and schedule which, if made available to contracting parties, might lessen their doubts and misgivings.

12. The representative of the European Communities said that although the Agreement would enter into force only on 1 January 1975, the parties were now ready to embark on a second phase of the arrangement pursuant to Article 17:2 of the Agreement, although this second stage had not been expected to commence until five years had elapsed. He added that Article XXIV:5(c) must be read in its entirety and "interim agreement" must include a full and detailed plan and schedule. The parties' view was and remained that the three concepts of "interim agreement", "plan and schedule" and "reasonable length of time" were indissociable one from the other as to their significance and their scope. They could not claim to be able to foresee, in an interim agreement, in any precise manner at this stage

and in a situation constantly changing, all the modalities that would lead to its objective. It nevertheless remained that, within the context of the Agreement, there was a plan and a schedule in the sense that the Agreement contained specific concrete provisions for attaining the objectives of tariff and quota dismantlement in a first stage, and the provisions necessary for continuing such dismantlement in accordance with the stated will of the parties to achieve a free-trade area within the meaning of Article XXIV and in compliance with the provisions of the General Agreement. One member said that the parties should, in any event, provide reference dates so that contracting parties could judge for themselves whether the time period was reasonable in their view.

Rules of origin

13. One member of the Working Party said that his authorities considered the rules of origin under the Agreement to be unduly restrictive, making it more difficult to establish GATT compatibility for the arrangement.

14. The representative of the European Communities said that although Article XXIV made reference to origin, there was no mention as to how contracting parties were to proceed in this respect. The parties to the Agreement could not accept that the rules applied were restrictive or too complex as they would apply only to their mutual free trade, as provided in Article XXIV:8(b), it was up to the parties themselves to decide upon the rules.

Trade coverage

15. The representative of Lebanon said that when the Agreement entered into force, approximately 60 per cent of Lebanese imports from the EEC would enter duty free or with tariff reductions.

16. The representative of the European Communities said that the corresponding figure for EEC imports from Lebanon would be approximately 70 per cent based on past experience; but that with the enlargement of the arrangement, that figure would cease to have all but historical significance.

Conclusions

17. The parties to the Agreement, supported by some members of the Working Party, held the view that it conformed fully with Article XXIV of the General Agreement. However, other members were of the view that the Agreement, as it now stood, did not conform fully to the requirements of the GATT. The Working Party could not reach any unanimous conclusions as to the compatibility of the Agreement with the provisions of the General Agreement. It therefore considered that it should limit itself to reporting the opinions expressed to the competent bodies of the CONTRACTING PARTIES.