

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 23 May 1977 (C/M/120) the CONTRACTING PARTIES were informed that on 3 May 1977 the European Communities and Lebanon had signed the following instrument, copies of which were transmitted to the secretariat and circulated to contracting parties with document L/4524:

- Interim Agreement between the European Economic Community and the Lebanese Republic.

2. At the meeting of the Council on 26 July 1977 (C/M/122) 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 Interim Agreement between the European Economic Community and the Lebanese Republic, signed on 3 May 1977 (L/4524), and to report to the Council." (L/4535/Rev.1)

3. The Working Party met on 19 and 27 April 1978 and was chaired by Mrs. N. Breckenridge (Sri Lanka). It had available the text of the instrument cited above¹ as well as the replies to questions which had been asked by contracting parties (L/4643).

GENERAL ISSUES

4. In his opening statement, the spokesman for the European Communities (EC) first recalled that the Co-operation Agreements that the EC had signed on 18 January 1977 with the Arab Republic of Egypt, the Hashemite Kingdom of Jordan,

¹Referred to in this document as the "Agreement".

the Syrian Arab Republic and, on 3 May 1977, with the Lebanese Republic had followed other Agreements, virtually identical in form, already concluded with the three countries of the Maghreb and which had been examined in GATT¹ under the customary procedures. Those Agreements fell within the context of the global and balanced approach of the EC vis-à-vis the countries of the Mediterranean basin, and more generally within the context of the Community policy in regard to developing countries. Furthermore, the Agreements reflected a strengthening of co-operation links between the Nine and the Arab world. The object of the Agreements under reference was to achieve broad co-operation in order to contribute to the economic and social development of the four countries of the Machrek and foster a strengthening of harmonious relations between those countries and the EC. To that end, the Agreements provided for a series of instruments and actions in the field of economic, financial and technical co-operation and of trade. The Agreements were of indeterminate duration with provision for general review, the first such review to be made in 1979. Pending completion of the procedures for ratification of the Co-operation Agreements in the countries concerned, their provisions regarding trade between the EC and Egypt, Jordan, Syria and Lebanon respectively had been given advance implementation with effect from 1 July 1977 by the conclusion of four Interim Agreements which had been signed at the same time as the Co-operation Agreements.

¹L/4558, L/4559, L/4560

5. The spokesman for the EC outlined some of the trade provisions of the Agreements; the object of the Agreements was to promote trade between the parties, taking account of their respective levels of development and of the need to ensure a better balance in their trade, with a view to accelerating the system of growth of the trade of the four Machrek countries and improving the conditions of access for their products to the Community market. The European Economic Community (EEC), as an economically more developed entity, had conceived its obligations in the form of a régime affording unrestricted access to its market, as provided in the General Agreement for the formation of a free-trade area. Since the entry into force of the trade provisions of the four Agreements, the EEC had been observing the obligation to eliminate duties and other restrictive regulations of commerce with respect to substantially all its trade with Egypt, Jordan, Syria and Lebanon respectively. For the products other than those covered by the common agricultural policy, i.e., raw materials and industrial products including products of the European Coal and Steel Community, those four countries' exports enjoyed unrestricted access to the market of the Communities. In addition, customs duties and quantitative restrictions on imports as well as measures with equivalent effect had been eliminated as from 1 July 1977. There were only a few temporary exceptions from that general principle: until the end of 1979 at the latest, imports of certain products - refined petroleum products, certain cotton fabrics, phosphatic fertilizers, cotton yarn, aluminium - were subject to a ceiling system. Although no ceilings had been fixed in respect of some of those products, the EEC reserved the right to

introduce them. In 1976, the proportion of non-agricultural products in EEC imports from the four countries of the Machrek had been approximately 86 per cent for Egypt, 97 per cent for Jordan, 98 per cent for Syria and 92 per cent for Lebanon. On the agricultural side, EEC imports from those four countries enjoyed tariff concessions varying between 40 and 80 per cent. Taking into account the specific characteristics of agriculture, the major part of those products - namely 71 per cent for Egypt, 94 per cent for Jordan, 78 per cent for Syria and 89 per cent for Lebanon - were admitted to the EEC either duty free or subject to reduced duties, with certain special provisions such as quotas, import calendars, observance of the rules laid down under the common agricultural policy, safeguard clauses. Taking into account the current level of development and economic development needs of those four countries, and likewise the need to ensure a better balance in their trade with the EC, the Agreements did not at present comprise any reciprocal free-trade obligation. Exports by the Communities to those countries would enjoy most-favoured-nation treatment, although exceptions could nevertheless be provided in favour of developing countries. The four countries of the Machrek undertook to maintain vis-à-vis the EEC the régime existing at the date of entry into force of the Interim Agreements, while retaining the possibility of strengthening their customs protection to the extent necessary for their industrialization and development needs. The Agreements were therefore consonant with the spirit and the letter of Part IV of the General Agreement. Nevertheless, trade liberalization was the ultimate objective of the Agreements. The measures that could be envisaged in that sense would have to be re-examined when the gap between levels of development had narrowed.

6. In conclusion, the spokesman for the EC underlined that his authorities were convinced that the objectives of economic development and more balanced trade relations, which the parties had set themselves in the Agreements, were fully in line with the attainment of the objectives underlying the GATT and motivating action by the CONTRACTING PARTIES, and that the provisions established to that end were consistent with the provisions of the General Agreement. The EC were accordingly requesting the CONTRACTING PARTIES to examine the Agreements as such, on their own merits, having regard to the objectives as a whole of the General Agreement, and as a positive contribution to the solution of development problems.

7. Associating himself with the remarks made by the spokesman for the EC, the observer for Lebanon said that the Agreement between the EEC and Lebanon was identical to those which the EC had concluded with the three countries of the Maghreb and with three countries of the Machrek. The four Agreements derived from the global approach policy of the EC in the Mediterranean region, and followed on from the preferential agreements concluded in 1972 and 1973. The agreement now under reference was a general co-operation Agreement comprising a financial aspect, a technical aspect and a trade and customs aspect. It was designed to foster the reconstruction of Lebanon by speeding up industrialization, to promote the development of commercial exports, and by securing the financing of infrastructure activities.

8. One member of the Working Party said that the Agreement represented the latest in a long line of preferential arrangements that had been examined in GATT. He noted that the Agreement was almost identical with those between the EEC and Tunisia, Algeria and Morocco respectively, which had been presented by the parties to those earlier agreements as a new model for such arrangements. His Government found some aspects of the Agreement commendable, notably in respect to the relationship between developed and developing countries. He welcomed the absence of reverse preferences to be granted by the latter and expressed support for the objective of the Agreement, as set out in Article 1. Nevertheless, other aspects of the Agreement were a cause of concern to his authorities, who considered that the arrangement would have to be kept under continuous scrutiny in GATT. In particular, the rules of origin appeared to be more stringent than in some other agreements and more restrictive than would be required to carry out the aims of the Agreement. He said that Lebanese importers would be obliged to source from EEC rather than from possibly less costly suppliers elsewhere, resulting in a drain of foreign exchange in Lebanon. He asked that the question of the diversion of third countries' trade be included in the parties' first biennial report to the CONTRACTING PARTIES on the operation of the Agreement.

9. One member of the Working Party noted that the Agreement was basically aimed at the economic development of Lebanon. Noting the traditional links between the EEC and that country, he expressed his authorities' sympathy with the general objectives of the Agreement. He said, however, that certain

aspects of the Agreement raised questions. Although Article XXIV of the General Agreement referred to the elimination of duties and other restrictive regulations of commerce, the Agreement did not provide for reciprocal concessions. Moreover, he did not share the view that Part IV of the General Agreement took precedence over Article XXIV. He said that in any event, Part IV did not allow for a selective application to some developing countries but not to others. He noted gaps in the trade coverage under the Agreement, and pointed out in this connexion that agricultural exports to the EEC were limited and that some of these items were excluded altogether. He expressed the view that the rules of origin were extremely restrictive and that the improvement of economic development was different from the deflection of trade. He agreed that Lebanese importers would have little sourcing choice when importing component parts for assembly and eventual export as manufactured products to the EEC.

10. Sharing the views of the two previous speakers, one member of the Working Party recalled his delegation's viewpoint in respect to the similar Agreements between the EEC and Tunisia, Algeria and Morocco respectively. When those earlier agreements had been examined in GATT, his delegation had questioned whether they were compatible with Article XXIV:8, which stipulates that duties and other restrictive regulations of commerce were to be eliminated on substantially all the parties' trade in a free-trade area. He said that although the parties considered the present Agreement compatible with the letter and spirit of Part IV of the General Agreement, his view was that the Agreement was a preferential one, especially as to the selective application to some developing countries. Finally, he requested the parties to submit the Co-operation Agreement to GATT when it was finalized.

11. One member of the Working Party said that while his authorities supported the aims of the Agreement, certain aspects, and in particular those related to agriculture, were a cause of concern. He noted the absence of a plan and schedule for the elimination of duties and other restrictive regulations of commerce on substantially all the parties' mutual trade. He also called attention to the fact that they had not sought a waiver for the Agreement on the grounds that it conformed to the spirit and letter of Part IV of the General Agreement. He shared the view that the parties should report biennially in GATT on the operation of the Agreement.

12. The spokesman for the EC expressed satisfaction at the support which had been shown for the aims of the Agreement, and said that the EC was prepared to furnish all appropriate information on its implementation, in accordance with the GATT procedure for examination of biennial reports on regional agreements. With regard to the possibility of consultations with contracting parties on the effects of the Agreement on their trading interests, he said that Articles XXII and XXIII of the General Agreement provided ample opportunities in this respect.

13. 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/4643. The main points made during the discussion are set out below.

APPLICABILITY OF PART IV OF THE GENERAL AGREEMENT

14. One member of the Working Party referred to the replies to questions 2 and 3 and recalled his earlier statement that he did not share the view that Part IV took precedence over Article XXIV of the General Agreement. He said that selective application of Part IV was tantamount to discriminating against some developing countries in favour of others, while Part IV had been drawn up on an m.f.n. basis for all developing countries. He also said that Article XXIV envisaged reciprocal rights and obligations in a free-trade area, and raised the question whether it could be applied to only one party while Part IV was applied to the other.
15. Other members of the Working Party shared the view that the Agreement was preferential.
16. The spokesman for the EC noted that Part IV of the General Agreement contained no provisions concerning a selective application, and that in the context of a free-trade area, Article XXIV was applicable with regard to the EEC. This was fully evident from the dismantlement of duties and quotas under the Agreement that the EEC had effected on 1 July 1977 with respect to substantially all imports from Lebanon.
17. With respect to Article XXXVI:8, one member of the Working Party called attention to the interpretative note and to the limited application of that provision to certain GATT Articles, with the exclusion of Article XXIV.

18. Another member of the Working Party pointed out that Article XXXVI:8 implied an m.f.n. application of concessions to developing countries.

19. The spokesman of the EC reaffirmed that Part IV did not oblige a developed contracting party to grant concessions to all developing countries.

RULES OF ORIGIN

20. One member of the Working Party referred to the reply to Question 5 and enquired as to the "objective criteria" on which the parties had based the rules of origin with respect to individual products. He said that the local content requirement appeared unduly high for a number of products, ranging from 60 per cent to 75 per cent for some items and even higher in others. His authorities were concerned about the harmful effect that this could have on third countries' trade with Lebanon. In particular, he cited the case of Lebanese manufacturers of intermediate products, who would tend to source sub-assembly components from within the EEC in order to benefit from the provisions of the Agreement upon re-export to the EEC. As an example, he cited the electronic equipment under CCCN heading 85.15, where the local content requirement for transistors was 97 per cent of the value of the finished product. He enquired as to how such percentages compared with those in the rules of origin in the EEC's scheme under the GSP.

21. The spokesman for the EC said that the parties did not consider the rules of origin to be restrictive, and that they were clearly needed in order to ensure that the parties had the benefit of the tariff and quota dismantlement under the Agreement. He noted that while the General Agreement provided for rules of origin, it did not define any criteria in

regard to them. Rules of origin could differ according to the case, consistently with the economic and commercial requirements. With regard to the local-content requirements, he said that the rules of origin had not been set up irrevocably and that they might be modified in the future so as to adapt to changed economic circumstances. He added that the percentages for specific items reflected the need to have the same rules in parallel agreements.

22. Another member of the Working Party expressed the view that a free-trade arrangement would not be harmed by more liberal rules of origin, and cited the simple 50 per cent level in the case of the Australia-Papua New Guinea Agreement that had been examined in GATT. He asked about the particular economic circumstances which might influence the modification of the rules of origin under the present Agreement.

23. The spokesman for the EC replied that this did not mean that the rules would vary with prevailing economic conditions, but rather that they would have to reflect the economic, commercial and trade context within which the parties conducted their bilateral trade.

AGRICULTURE

24. One member of the Working Party called attention to the joint declaration by the parties on agricultural products and enquired as to their present evaluation of the possible future scope of an expansion of their trade in those products. He also sought information on the types of measures that the parties might contemplate using for this expansion, and asked about the reviews that the parties intended to conduct with regard to their mutual trade.

25. The spokesman for the EC noted that the parties' trade in agricultural products was covered by Articles 9-13 of the Agreement and recalled the high percentage (92 per cent) of Lebanese exports in this sector that benefited from lowered EEC duties. As for the future expansion of the parties' agricultural trade and the measures that might be adopted for this purpose, he said that the review in 1979 and the succeeding reviews in 1984 and at future five-year intervals would enable the parties to make such decisions in the light of experience. He added that the parties had no pre-conceived notions as to the types of measures that might be adopted, and that the ultimate goal would continue to be the total liberation of trade between the parties.

SAFEGUARDS

26. One member of the Working Party asked why the parties had not referred to Article XIX of the General Agreement when dealing with the issue of safeguard measures in Articles 24 and 25 of the Agreement. He also enquired as to how they would go about selecting measures that would least disturb the functioning of the Agreement, as provided in Article 25(2). In addition, he asked whether a party to the Agreement could extend more favourable treatment to the other party than to third countries when taking safeguard measures.

27. The spokesman for the EC said that Articles 24 and 25 of the Agreement referred only to safeguard measures that the parties might take with respect to their bilateral trade, and that any measures taken with respect to third countries would be in accordance with Article XIX of the General Agreement insofar as GATT contracting parties were concerned. He called attention to

the resemblance between Articles 24 and 25 of the Agreement and Article XIX of the General Agreement. He added that the parties would engage in consultations in order to select safeguard measures that in a concrete situation would least disturb the functioning of the Agreement.

OTHER ISSUES

28. One member of the Working Party sought clarification with respect to Article 20 of the Agreement, and in particular a confirmation that this did not result in the remission of corporation taxes.

29. The spokesman for the EC said that the provisions of Article 20 which could be found in all similar agreements entered into by the EEC, stemmed from Article 96 of the Treaty of Rome and were aimed at ensuring fiscal neutrality. He added that there was no remission of corporation taxes and that Article 20 did not refer to "direct" or "indirect" taxation as those terms were used in a GATT context.

30. One member of the Working Party asked about the relationship between Articles XII and XVIII of the General Agreement and Article 26 of the Agreement concerning measures that might be taken for balance-of-payments reasons. In this respect he expressed the view that a country would not be expected to take balance-of-payments measures with regard to only one or several countries, but rather with regard to all other countries.

31. The spokesman for the EC replied that the provisions of Article 26 referred solely to the parties' relationship within the framework of the Agreement.

CONCLUSIONS

32. There was wide sympathy in the Working Party for the view that the purposes and objectives of the Agreement also reflected those embodied in the General Agreement, including Part IV, given the historical and geographical considerations germane to Lebanon's economic development and the need for better balanced economic relations, that had led to the conclusion of the Agreement. Some members of the Working Party, however, expressed the view that the concessions under the Agreement should have been extended to developing countries generally.

33. The parties to the Agreement considered that the Agreement was entirely consistent with the objectives and the relevant provisions of the General Agreement taken as a whole, and that it constituted a positive contribution to solving the economic development problems of Lebanon.

34. Other members of the Working Party held the view that it was doubtful that the Agreement was entirely compatible with the requirements of the General Agreement. The Working Party noted that the parties to the Agreement were prepared, in accordance with the GATT procedure for examination of biennial reports on regional agreements, to supply all appropriate information on the implementation of the Agreement. One member urged that the examination of those reports include an analysis of the impact of the rules of origin on third countries' trade.