

GENERAL AGREEMENT ON TARIFFS AND TRADE

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REPORT OF THE WORKING PARTY ON THE ACCESSION OF ICELAND TO EFTA AND FINEFTA

1. The Working Party was established by Council on 12 February 1970 (C/M/61), with the following terms of reference:

"To examine, in the light of the relevant provisions of the General Agreement, the provisions of the Decision of the Council of the European Free Trade Association regarding the accession of Iceland to the Convention Establishing the European Free Trade Association and to the Agreement creating an Association between the member States of EFTA and Finland, and to report to the Council."

2. The Working Party met on 19 May, 14 and 16 September 1970, under the Chairmanship of Mr. A. Papić (Yugoslavia), and carried out its task through (a) an examination of the Decision of Accession; (b) an examination of the bilateral agreements between Iceland and other EFTA member States concerning the supply of lamb and mutton, and concerning the export of frozen fish fillets to the United Kingdom; (c) a consideration of the question of the consistency of the Decision of Accession and the agreements with Article XXIV.

I. The accession of Iceland to EFTA and FINEFTA

3. The Working Party noted with sympathy the efforts made by Iceland to diversify its production and achieve economic growth and a higher living standard through regional co-operation. The Working Party examined the accession of Iceland to EFTA and FINEFTA in the light of the particular economic structure of the country, so heavily dependent on the production and export of fishery products. In this context the representative of Iceland recalled that his country had experienced highly adverse economic conditions in the years 1966-1968. It had nevertheless not taken recourse to restrictions but had opted for an extensive trade liberalization. As a result of membership of EFTA, Iceland would reduce and finally abolish quantitative restrictions on industrial imports, except some petroleum products, on a global basis by 1974. Moreover, Iceland has carried through very extensive unilateral most-favoured-nation tariff reductions on industrial raw materials and machinery which would be carried still further in years ahead. Thus it was felt that Iceland's accession to EFTA was a positive contribution to the work of GATT.

4. The Working Party noted that according to the Decision of Accession all the provisions of the Stockholm Convention and the FINEFTA Agreement applied to trade between Iceland and the original member States as they did to trade between the original members themselves, subject to amendments of a number of dates and to certain transitional arrangements for Iceland's implementation of the provisions on elimination of duties and quantitative import restrictions.

5. The Working Party noted that Icelandic import duties would be reduced according to the detailed schedule set out in paragraph 1 of the Decision and be eliminated by 1 January 1980. The provisions contained in paragraph 3 of the Decision which permit Iceland to increase its import duties existing on 1 January 1970 at any time during the first five years of the transitional period had no equivalent in any of the general provisions of the Stockholm Convention and the FINEFTA Agreement; however, it corresponded to the specific provisions in paragraph 6 of Annex G to the EFTA Convention which deals with the special arrangements for Portugal in the transitional period. As the rights and obligations arising from the Decision of Accession were those contained in the Stockholm Convention, the differences of views expressed by members of EFTA on the one hand and the other members of the Working Party on the other hand when the Stockholm Convention was under examination continued to exist. As stated above the Decision allowed Iceland to increase for development purposes import duties existing on 1 January 1970 during the first five years, i.e. until 1 January 1975. Any duties increased under sub-paragraph (c) would also be eliminated by 1980. It was argued by some members that if duties increased under this provision were eliminated for EFTA countries in 1980, third countries would be faced with a higher duty incidence and the gap between applicable duties would thus be wider than before. In this context the provisions of Article XXIV, paragraph 5(b) were recalled. Another member pointed out with regard to the requirement of Article XXIV, paragraph 8(b), that in so far as additional tariffs are imposed, the percentage of trade free of duties and other restrictions would actually be reduced during the transitional period. The representative of Iceland pointed out that this would only apply in the case of zero duty rates and that it was not foreseen that the case would arise. Furthermore, he stated that it was unlikely that paragraph 3 of the Decision would be applied to any significant extent. In any case, Iceland was fully aware of its GATT obligations and should any problems arise from the application of such a provision the GATT procedures including Article XXVIII would be closely observed.

6. In the context of whether the Decision of Accession of Iceland met the requirements of Article XXIV:8(b) as regards "substantially all the trade", the Working Party was informed that the total trade coverage of the enlarged free trade area which was above 95 per cent was not affected by Iceland's accession to EFTA. The proportion of Icelandic imports covered by the free trade area arrangements amounted to 93 per cent and the proportion of Icelandic exports covered was of the order of 50 to 60 per cent. This figure was expected to increase in step with the progressive industrialization of the Icelandic economy. This process would be furthered inter alia by the newly-established Nordic industrialization fund. Some members of the Working Party were of the view that a coverage of 50 to 60 per cent of Icelandic exports fell short of the requirements of "substantially all the trade". It was pointed out, however, that the requirement was not intended to apply separately to exports or to imports. However, it was pointed out by one member that there was a qualitative as well as quantitative aspect to the requirements of Article XXIV, and that the exclusion of major sectors of trade, such as

agriculture and marine products, could not be considered compatible with paragraph 8(b). The representatives of EFTA and FINEFTA held the view that trade in agriculture and marine products was covered by the Stockholm Convention and that in pursuance of the policies and objectives regarding agriculture stated in the Convention, EFTA had adopted a number of measures to further trade in agricultural products.

7. With reference to paragraph 6 of the Decision the Working Party noted with appreciation that Icelandic quantitative restrictions were to be eliminated on a global basis within a period of five years.

II. Bilateral agreements

8. In general comments, the EFTA spokesman said that the quotas granted to imports of lamb and mutton from Iceland by Denmark, Norway, Sweden and Finland constituted an integral part of the terms and conditions of Iceland's accession to EFTA and FINEFTA. These arrangements were necessary to balance the terms of accession of Iceland to EFTA and were based on special historical trading links; moreover, the quantities involved were limited. It was not envisaged that any other EFTA countries would enter into similar bilateral arrangements with Iceland.

9. In regard to the compatibility of these bilateral agreements with the General Agreement the representative of Denmark recalled the position taken by the EFTA countries, in connexion with the examination of the Stockholm Convention, that bilateral agreements were an integral part of the free-trade agreement in the sense of Article XXIV. This was also the case for the bilateral agreements between Iceland and the Nordic countries. It was the opinion of the EFTA countries and Finland that the special concessions on lamb and mutton were in conformity with paragraphs 4 and 5 of Article XXIV.

10. Certain members of the Working Party were of the view that these bilateral quotas conflicted with the provisions of Article XIII and wished to record their concern at the creation of new discriminatory quantitative restrictions. In their view Article XXIV did not affect the obligation of contracting parties to apply quota restrictions in a non-discriminatory manner. While these members recognized that the trade involved was not large, they emphasized that an important question of principle was involved and referred to the position that they had taken regarding earlier intra-EFTA bilateral agreements in the Working Party which had examined the Stockholm Convention and the FINEFTA Agreement. One member was of the view that these new bilateral agreements represented a step backward even from the agreed interpretations that had been reached in the above-mentioned Working Parties.

11. One member stated that the granting of special quotas to Iceland had already caused some damage to the trade of his country, a major world supplier of lamb and mutton. While he appreciated the special problems confronting Iceland, he suggested that the EFTA countries which had negotiated bilateral agreements with Iceland should administer these in accordance with Article XIII and in a manner that would minimize any trade diversion. He also hoped that, as the diversification of its economy progressed, Iceland would no longer have need for special discriminatory treatment, and suggested that EFTA-member countries should keep this question under review.

12. The representatives of the EFTA countries were of the opinion that the agreements would not adversely affect the trade of third countries since inter alia, the markets for lamb and mutton were expanding, the quotas for Iceland did not entail any purchase commitment and physical restrictions prevented any significant expansion of Iceland's productive capacity which in any case was mainly absorbed by the United Kingdom market. They also stated that if individual contracting parties should feel that their interests may be affected as a result of the bilateral agreements, such countries would have the possibility of initiating consultations with the EFTA countries in question.

III. Consistency of the Accession Decision with Article XXIV

13. On considering the question of the consistency of the Decision of Accession with Article XXIV of the GATT, the Working Party, recalling the full discussions on the fundamental issues in the Working Party which had been established to examine the Stockholm Convention, was of the opinion that there was no need to repeat this argumentation¹ in the report beyond the discussion noted above.

IV. Conclusions

14. In view of the foregoing considerations, the Working Party recommends to the CONTRACTING PARTIES that they should consider the desirability of adopting, with respect to the matters referred to the Working Party, conclusions on the lines of those they adopted on 18 November 1960² with respect to EFTA. In order to expedite the work of the CONTRACTING PARTIES, the Working Party submits the following draft for their consideration:

(a) The CONTRACTING PARTIES have examined, in accordance with the relevant provisions of the General Agreement, the provisions of the Decision of the Council of the European Free Trade Association regarding the accession of Iceland to the Convention establishing the European Free Trade Association and to the Agreement creating an Association between the member States of EFTA and Finland, and have taken cognizance of the information submitted by the parties to this Decision in this connexion.

(b) The CONTRACTING PARTIES have taken note of the provisions of the Decision as well as of the statements made by the representatives of the parties concerned, to the effect that their governments are firmly determined to establish, within the time-limit provided for, a free-trade area within the sense of Article XXIV.

(c) The CONTRACTING PARTIES feel that there remain some legal and practical issues which could not be fruitfully discussed further at this stage. Accordingly, the CONTRACTING PARTIES do not find it appropriate to make recommendations to the parties to the Decision pursuant to paragraph 7(b) of Article XXIV.

¹BISD, Ninth Supplement, page 83

²BISD, Ninth Supplement, page 20

(d) This conclusion clearly does not prejudice the rights of the CONTRACTING PARTIES under Article XXIV.

(e) The CONTRACTING PARTIES note that information pursuant to paragraph 7(a) of Article XXIV will be furnished by the parties to the Decision as the evolution of the terms of accession of Iceland to EFTA and FINEFTA proceed.

(f) The CONTRACTING PARTIES also note the willingness of the parties to the Decision to furnish in Article XXII consultations information as to the measures arising out of the application of the Decision.

(g) The CONTRACTING PARTIES note that the other normal procedures of the General Agreement would also be available to contracting parties to call in question any measures taken by any of the parties to the Decision of Accession in the application of the provisions of the Decision, it being open of course for such countries to invoke the benefit of Article XXIV in so far as it is considered that this Article provided justification for any action which might otherwise be inconsistent with the provision or provisions of the General Agreement.