

GENERAL AGREEMENT ON TARIFFS AND TRADE

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EUROPEAN ECONOMIC COMMUNITY

Association of Turkey

(Replies to questions)

Under the procedures agreed upon by the CONTRACTING PARTIES at their twenty-first session (SR.21/9), contracting parties were invited to send to the Executive Secretary the questions they wished to put to the signatories to the Agreement creating an Association between the European Economic Community and Turkey concerning the provisions of the Agreement (L/2155/Add.1) and its implementation. From the communications received a consolidated list of questions was prepared and transmitted to the parties to the Agreement.

The present document contains the questions asked and the replies received.

GENERAL

- Question 1

Do the contracting parties to the Agreement consider that the Agreement is consistent with the provisions of Article XXIV of GATT? Do they consider that Articles 1 to 8 of the Agreement and Article 1 of the Provisional Protocol meet the requirements of paragraph 5(c) of Article XXIV? - and, if so, how are these requirements met?

Answer

The Ankara Agreement provides for the progressive establishment of a customs union in conformity with Article XXIV of GATT. Article 10 states that the customs union covers trade in goods generally between the parties to the Agreement. It comprises, in the sense of Article XXIV:8(a), the prohibition as between the parties of all customs duties and charges with equivalent effect and all quantitative restrictions, and in Turkey's relations with third countries, the adoption of the common customs tariff of the EEC and likewise approximation with the other regulations applied by the Community with respect to external trade.

The customs tariff applicable by the parties to the association, as referred to in Article 10:2, is consistent with Article XXIV:5(a), because Turkey's customs tariff is on the whole higher than that of the EEC, so that the general incidence of the Turkish tariff will be lowered as a result of Turkey's adoption of the common customs tariff. In the event that application by Turkey of the EEC tariff rates resulted in any increase in bound duties, the renegotiation procedures provided for in the General Agreement would be respected.

The parties to the Ankara Agreement consider that Articles 1 to 8 of the Agreement and Article 1 of the Provisional Protocol include a plan and schedule for the formation of a customs union, as required by Article XXIV:5(c) of the General Agreement.

Taking into account the difference in their respective economic levels, the parties to the Agreement considered it reasonable to leave some flexibility over the time-limits for achieving the customs union, so that the latter may be established in a manner which is balanced and not harmful to the Turkish economy. Accordingly, the Agreement provides for a stage during which Turkey will strengthen its economy with the assistance of the Community, in order to be able to take on the obligations which will accrue to it during subsequent stages. Such assistance is granted in the form of financing (see Protocol No. 2) and at the same time the progressive formation of the customs union will start through a series of tariff disarmament measures by the Community with respect to Turkey on products representing a considerable proportion¹ of Turkey's exports to the Community which are subject to customs duties.

¹55 per cent.

The CONTRACTING PARTIES themselves have recognized that in considering the time required for the definitive establishment of a customs union, account should be taken in each case of the characteristics of the economies of the countries concerned (see document GATT/CP/3/24).

Any substantial change in the plan or schedule will be notified to the CONTRACTING PARTIES, in pursuance of Article XXIV:7(c).

ARTICLE 3

- Question 2

What positive measures, in addition to those provided for in the Agreement, do the member States of the Community propose to take, pursuant to Article 3, to assist the economy of Turkey to reach as quickly as possible a level of economic development which would enable Turkey to adopt a specific plan and schedule leading to a full customs union?

Answer

The Parties to the Agreement consider that it is precisely the measures provided for in the Association Agreement with a view to strengthening Turkey's economy which have enabled that country to adopt the plan and schedule included in the Agreement for the progressive formation of a customs union. This is clear from Article 3 of the Agreement. The provisions of the Agreement do not preclude the possibility of assistance from the Community being supplemented by action on the part of individual member States.

ARTICLE 4

- Question 3

How will the customs union be brought about? Will there be any possibilities for GATT contracting parties to renegotiate earlier Turkish GATT concessions affected by the formation of a customs union? Who will act as negotiator?

Answer

The customs union will be brought about through the progressive elimination of obstacles to reciprocal trade, the alignment of the Turkish customs tariff with that of the EEC, and approximation with the other regulations applied by the EEC in the field of external trade.

Contracting parties to the General Agreement will have the possibility to renegotiate earlier Turkish concessions in any case where it would not be possible to maintain them because of Turkey's adoption of the EEC common customs tariff duties.

At this juncture, the Parties to the Agreement cannot state who will act as negotiator.

ARTICLE 5

- Question 4

Can any example be given of how the co-ordination of economic policies and the strengthening thereof will be brought about; is it possible to estimate when such co-ordination will be achieved?

Answer

The co-ordination of economic policies will be brought about within the framework of the Association Council, through consultations, recommendations or decisions.

The co-ordination of economic policies can be considered as the completion of the approximation of policies during the transitional stage. The co-ordination thus established will be strengthened during the final stage of the customs union.

ARTICLE 8

- Question 5

In what fields could "safeguard clauses" be necessary, and on what bases would these be formulated?

Answer

Safeguard clauses might prove necessary in the same fields for which similar clauses have been written into regional agreements already examined by the CONTRACTING PARTIES.

By way of example, one might mention the safeguard clause in Article 226 of the Rome Treaty which applies in the event of serious difficulties in any economic sector or any region of a member State (in the course of the transitional period).

ARTICLE 9

- Question 6

In what cases can it be envisaged that "special provisions" according to Article 8 will be formulated to produce a restrictive effect on trade in a discriminatory way?

Answer

The special provisions referred to in Article 9 relate essentially to fields other than trade.

The Rome Treaty contains a provision which is substantially the same, in Article 7, paragraph 1 ("within the field of application of this Treaty and without prejudice to the special provisions mentioned therein, any discrimination on the grounds of nationality shall hereby be prohibited").

The provisions could not in any event be such as to contravene the provisions of Article 10, or have a restrictive effect on trade.

ARTICLE 10

- Question 7

Does "trade in goods generally" mean the same thing as "substantially all the trade" according to GATT Article XXIV?

Answer

The term "trade in goods generally" in Article 10 of the Agreement is broader than "substantially all the trade".

- Question 8

Does the Agreement affect the intentions of the Government of Turkey regarding quantitative restrictions on imports from member States of the Community and from other contracting parties to GATT?

Answer

According to Article 10, paragraph 2 of the Agreement, the customs union comprises "the prohibition as between the member States of the Community and Turkey of ... all quantitative restrictions on importation or exportation". The removal of such restrictions within the customs union is the very essence of the union, in conformity with Article XXIV.

The same paragraph of Article 10 states, in the second sub-paragraph, that in relations with third countries, Turkey is to carry out an approximation with the regulations applied by the Community with respect to external trade. Those regulations include quantitative import restrictions.

- Question 9

Does the stipulation that Turkey shall adopt the common tariff of the Community mean that this common tariff will be modified having regard to the former level of tariffs in Turkey? If not, how are the requirements of GATT Article XXIV:5(a) to be met?

Answer

The stipulation that Turkey must adopt the common tariff of the Community means that the tariff will not be modified having regard to the former level of tariffs in Turkey. As indicated in the reply to Question 1, the general incidence of the Turkish customs tariff is on the whole higher than that of the Community customs tariff. Consequently, no difficulties arise in connexion with the requirements of Article XXIV:5(a).

- Question 10

What are the "other regulations applied by the Community" referred to in paragraph 2?

Answer

This relates in particular to common commercial policy regulations deriving from Articles 110 to 116 of the Rome Treaty.

ARTICLE 11

- Question 11

What is meant by "special modalities"?

Answer

The modalities for the progressive application of the association to agriculture and to trade in agricultural products must be properly suited to that sector and must take account of the special aspects of production and trade in these products in the two Parties to the Agreement.

ARTICLE 26

- Question 12

How large a portion of the trade between Turkey and the EEC comprises goods covered by the Agreement establishing the European Coal and Steel Community? Will there be a special agreement with the above-mentioned Community?

Answer

In 1962, imports of ECSC products into Turkey represented 4.75 per cent of total imports from Community member States. In the same year, 0.49 per cent of imports from Turkey by EEC member States consisted of ECSC products.

This does not preclude the possibility of a subsequent arrangement between Turkey and the ECSC.

ARTICLE 28

- Question 13

Does this mean that Turkey is to lodge a formal application for membership in EEC when the moment for such a step is considered to be suitable? Is it possible to estimate when full membership for Turkey in EEC will be obtained?

Answer

The Association Agreement is drawn up with the prospect that Turkey will eventually accede to the Community. In the preamble to the Agreement, the Parties have recognized that "the support given by the European Economic Community to the Turkish nation's efforts to improve its standard of living will eventually facilitate the accession of Turkey to the Community". Furthermore, the Parties to the Agreement will consider the possibility of such accession "when the operation of the Agreement makes it possible to envisage the integral acceptance by Turkey of the obligations under the Treaty establishing the Community" (Article 28).

It is not possible to predict exactly when such accession will take place.

ARTICLE 1 - PROVISIONAL PROTOCOL

- Question 14

What criteria will be applicable in determining whether the economic situation of Turkey makes it possible to draw up the additional Protocol?

Answer

In considering the economic situation the Association Council is not bound to specified criteria - which in any case would be virtually impossible to determine - but it examines all elements available to it in order to judge whether the Turkish economy has been sufficiently strengthened to take on the obligations which will be incumbent on Turkey during the second stage.

- Question 15

Would the provisions of Article 1 (or of any other relevant Article) permit prolongation of the preparatory stage beyond eleven years?

Answer

Although Article 1 of the Provisional Protocol does not preclude the possible extension of the preparatory stage beyond eleven years, it nevertheless states clearly that the provisions of the Protocol expire at the latest at the end of the eleventh year. In the rather improbable event that the preparatory stage had to be prolonged, the Parties to the Agreement would observe the requirements of Article XXIV:7(c) (see reply to question No. 1).

- Question 16

Do the provisions of Article 1 and, more generally, the provisions of the Association Agreement exclude the invocation of paragraph 10 of Article XXIV of GATT?

Answer

It is precisely the task of the Working Party appointed by the CONTRACTING PARTIES to examine the provisions of the Agreement in the light of the relevant provisions of the General Agreement. Having regard to the fact that the objective of the Agreement is the progressive establishment of a customs union in conformity with Article XXIV, paragraph 10 of that Article would not be applicable.

ARTICLE 2 - PROVISIONAL PROTOCOL

- Question 17

Article 2 provides for annual tariff quotas for imports into the member States of certain products from Turkey. How do the Contracting Parties to the Agreement propose to reconcile this preferential treatment with the provisions of GATT?

Answer

The system of tariff quotas should not be considered independently of the process of formation of the customs union, of which it is an integral part.

As already indicated in the reply to Question 1, the provisions of the Ankara Agreement have been designed to take account of the considerable differences¹ in the economic development levels reached by the Parties to the Agreement. In this respect, Article XXIV permits contracting parties to deviate from the most-favoured-nation clause as regards not only the establishment of a customs union but also the transitional arrangements leading to it.

ARTICLE 4 AND ARTICLE 6 - PROVISIONAL PROTOCOL

- Questions 18 and 19

Will the member States of the Community promptly inform the CONTRACTING PARTIES to GATT of any decision under Article 4 to increase the tariff quotas provided for in Article 2? May it be assumed that the member States, in deciding upon any such increase, will take into account the interests, existing and potential, of other contracting parties to GATT which export these products, and that they will take steps to mitigate the trade impact of tariff quotas on other suppliers? Are tariff quotas for any other products contemplated?

Do the "measures" envisaged include preferential tariff quotas or other treatment contrary to the most-favoured-nation principles of GATT? Would the CONTRACTING PARTIES to GATT be afforded an opportunity to examine any proposals to introduce such measures?

Answer

In accordance with the commitments which they have entered into under the General Agreement, the Parties to the Agreement are prepared to inform the CONTRACTING PARTIES of decisions taken by the institutions provided for in the Agreement within the fields of application of the General Agreement.

Article XXIV of the General Agreement recognizes that the establishment of a customs union must not be designed to raise barriers to trade with territories not parties to the union. Consequently, with respect to customs duties and other regulations of commerce with third countries, Article XXIV:5(a) specifies that the general incidence of the common tariff of the customs union must not be higher than the general incidence of the customs duties applicable prior to the formation of the union. As indicated in the answer to Question 9, the Association Agreement respects these provisions. This rule applies also to other regulations of commerce.

¹It will suffice to recall that Turkey's gross domestic product per capita amounts to \$209, as compared with \$1,296 within the Community (1962 statistics).

On the internal level, the customs union consists of the progressive substitution of a single customs territory for several, necessarily and inevitably involving the elimination of customs duties on trade between the constituent territories. When proceeding to the progressive elimination of duties on commercial exchanges the Parties to the Agreement will take into account, within the framework of their obligations under Article XXIV of GATT, the interests of other contracting parties, in conformity moreover with the spirit of Article 110 of the Rome Treaty.

ARTICLE 7 - PROVISIONAL PROTOCOL

- Question 20

Can examples be given of the type of measures envisaged? Would the member States take steps to protect the interests of other suppliers of these products?

Answer

Since no common agricultural policy yet exists for the products mentioned in Article 7, it is difficult to give examples of the type of measures envisaged in that Article, even by way of mere indication.

ARTICLE 4 - FINANCIAL PROTOCOL

- Question 21

Is it possible to foresee how large a portion of the 175 million dollars mentioned in Article 2 will be allocated to projects in accordance with paragraph 2 of Article 4?

Answer

At the present juncture, it is not possible to specify what portion of the 175 million units of account mentioned in Article 2 will be allocated to loans of the type indicated in Article 4, paragraph 2. For the first two years of application of the Agreement, however, the European Investment Bank has decided to devote a substantial part of its interventions in Turkey to loans of this kind, although certain sums are being reserved for the financing of projects yielding normal returns.

ARTICLE 5 - FINANCIAL PROTOCOL

- Question 22

Does this mean that physical and juridical persons outside EEC and Turkey will be excluded from participating in tenders?

Answer

Article 5, paragraph 1 merely states that all physical or moral persons of Turkey or of one of the member States may participate on equally competitive terms in tenders. The provisions of this Article may be taken together with the principle of non-discrimination on grounds of nationality, as set forth in Article 9.

These provisions in no way prejudice the possible participation of physical or moral persons of other countries.