

AC HOC COMMITTEE ON AGENDA AND INTERSESSIONAL BUSINESS

EUROPEAN COAL AND STEEL COMMUNITY

Statement by the Netherlands Member of the Intersessional
Committee

At the end of the Sixth Session of the Contracting Parties an intersessional working party was set up to consider the problems connected with the establishment of a European Coal and Steel Community. At that time it was generally expected that the Treaty establishing the Community would enter into force shortly after the Sixth Session. Actually it was from the 17th until the 23rd July 1952 that the ratifications of the Treaty were deposited. Therefore and as a result of some minor delays it has not yet been possible to convene a meeting of the intersessional working party. On behalf of the three Benelux countries and after consultation with the other three countries who together have created the European Coal and Steel Community I have the honour herewith to submit officially the problems arising from the establishment of the Community for consideration by the Contracting Parties during their Seventh Session.

It may perhaps be said that there would hardly have been any problems to consider in relation to the European Coal and Steel Community if at the time of drafting of the General Agreement on Tariffs and Trade the concept of a partial, but close and extremely important form of integration between the economies of countries parties to an agreement like the Community had been known. I may refer in this connection to the first sentence of the fourth paragraph of Article XXI of the Agreement. As this however was not the case I have to submit the following problems for the consideration of the Contracting Parties.

It is common knowledge, that it is the purpose of the European Coal and Steel Community to create a community which for all practical purposes resembles closely the situation that would have existed, had the territories of the six participating countries constituted one single state for the purpose of the production of and trade in coal, coke, iron ore, iron, steel and semi-manufactures. That means that while the trade in these commodities within the six territories constituting the Community should be as free as possible, trade with countries outside the Community cannot share in the same freedom. I should add immediately that it is the avowed aim of the Community not to raise barriers to the trade of other contracting parties with the member countries of the group. On the contrary it is hoped that the increased strength of the participating countries will allow them to trade even more freely with the rest of the world than hitherto was the case.

I am therefore convinced that nothing we ask for would be against the spirit of the Agreement as expressed inter alia in Article XXIV of the General Agreement. Nevertheless there may be legal incompatibilities which can only be overcome, if the Contracting Parties agree to grant the six contracting parties concerned a waiver as provided for in the fifth paragraph of Article XXIV of the Agreement. It is for the consideration of such a waiver that the Benelux countries ask on behalf of the countries participating in the Community. I want to stress the fact that the waiver I am referring to should relate specifically to the European Coal and Steel Community. It should only free the participating countries from their obligations under the Agreement in so far as the General Agreement might otherwise prevent the formation of the European Coal and Steel Community.

The clauses of the General Agreement referred to are the following:

- a) Article I, paragraph 1 and Article XIII of the Agreement in relation to Article 4 a) and Article 79 paragraph 2 of the Treaty creating the European Coal and Steel Community.

Remarks: Article 4 a) of the Treaty states that import or export duties, any comparable charges and quantitative restrictions are incompatible with the creation of a common market for coal and steel and are therefore abolished inside the Community. It is clear that such drastic action can only be taken by countries participating in the Community if the rule of non-discrimination of the Agreement contained in Article I paragraph 1 and Article XIII does not oblige them to throw open their frontier to the same degree for imports of coal and steel from all contracting parties.

Article 79 paragraph 2 of the Treaty provides for the extension of preferential arrangements for coal and steel from which countries participating in the Community benefit in their dependent overseas territories to all members of the Community. The matter only arises in the case of certain territories of the French Union, as the Benelux countries do not benefit from preferences in their overseas territories.

- b) Article XI of the Agreement in relation to transitory arrangements like paragraph 26 section 3 of the Convention on Transitory Arrangements.

Remarks: It is clear that the drastic action of establishing a Community for Coal and Steel made it necessary to establish certain temporary safeguards to prevent a serious disruption of the economies of participating countries. In this manner section 3 of paragraph 26 of the Convention allows the Belgian Government to "isolate" its internal coal market during a certain transitory period. This may imply import restrictions not provided for in the Agreement. Without such interim arrangements the establishment of the European Coal and Steel Community would not have been possible.

It may appear necessary to consider a further problem in relation to Article XI of the Agreement. A situation might be conceived in which one or more members of the Community would find themselves in a position where - in conformity with the Agreement - they had to apply restrictions against imports of treaty commodities from countries outside the Community; other members of the Community might then be in a position which did not fulfill the requirements of the clauses of the Agreement allowing the imposition of quantitative restrictions. If in such case only the individual situation of the members of the Community could be considered the effect of the measures of those member countries who had to apply import restrictions could be nullified as a result of the free movement of commodities inside the Community. The commodities concerned could in that case reach their markets from outside the Community through the trade channels of those member countries who would not be allowed to apply quantitative restrictions. In such or similar cases it might prove of vital importance to the formation or the functioning of the Community that participating countries should be allowed to impose quantitative restrictions provided such restrictions, though perhaps not justified in view of their individual situation, would be essential taken the position of the Community as a whole. In this context I may refer to Article 71 paragraph 2 of the Treaty establishing the European Coal and Steel Community where it is specifically stated that the powers in the field of trade policy in relation to third countries which the Treaty confers on the Community cannot be wider than those the participating countries had already under international agreements to which they are contracting parties.

- e) Schedule II of the Agreement in relation to paragraph 15 of the Convention on Transitory Arrangements.

Remarks: I may refer to the statement by the Benelux delegations of 2 April 1951 (GATT/GPS/7) during the Special Session of the Contracting Parties in Torquay. In order to allow a negotiated "harmonization" of the customs duties of the participating countries the Benelux countries agreed in paragraph 15 of the Convention to establish during a transitory period tariff quotas for commodities coming within the scope of the Community if such action would prove necessary to prevent such commodities being imported through the Benelux countries - with their low rates of duties - into other participating countries who have higher duties. It is intended that care will be taken that the tariff quotas should in any case be sufficient to allow the supply of all requirements of the Benelux countries themselves at existing rates. At the latest at the end of the transitory period the Benelux countries would be prepared to increase certain rates of duty on steel by a maximum of two points if such increases were required to achieve the desired harmonization. In view of this undertaking it may be necessary to reconsider the bindings of Benelux rates of duty resulting from previous tariff negotiations.