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INFORMATION MEMO

Tariff quotas

The following summary indicates the policy of the EEC Commission in the matter of tariff quotas, and sums up the present position in the Community and the probable lines of future development.

Tariff quotas are a form of protection under which a more favourable rate of duty is charged for a given quantity of a particular product for a fixed period. They thus fall halfway between the two traditional forms of protection - quantitative restrictions and customs duties - but are in practice used to operate a more liberal policy, mitigating the effects of a customs duty without compromising its existence.

Most Member countries granted tariff quotas in trade agreements before the Common Market was set up, and some were even "bound" under GATT. With the development of the customs union more tariff quotas were granted and the Commission and the Member States were obliged to work out a general policy underlining their decisions on specific cases.

During the transitional period, before a common commercial policy is achieved, tariff quotas are one of the few instruments available to the Community in negotiating with non-member countries. The Commission, however, always resisted the temptation of considering them as a permanent instrument of trade policy used to safeguard the interests of non-member countries. A permanent tariff quota would mean that there was no customs union for the product in question. Instead the Commission has held that tariff quotas are an instrument of adaptation, enabling Member States temporarily to escape the Treaty obligation of bringing their national tariffs into line with the Community tariff.

Eventually tariff quotas will either disappear or will be converted into Community quotas, open to importers in all the member countries. The Court of Justice adopted a similar attitude to the Commission in ruling "that national tariff quotas are transitional measures intended gradually to adapt traditional flows of trade to the new conditions created by the customs union".

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These new conditions often do give rise to economic problems to which no immediate solution can be found. Although each quota granted by the Council or the Commission is to meet a specific case, these cases can be classified into a number of main categories.

First, there is the above-mentioned problem of relations with non-member countries. GATT authorizes customs unions under certain circumstances. However, countries outside a customs union that is being formed will inevitably, on occasion, feel that it is damaging to their trade or simply to their expectations of increased trade. Moreover, every association agreement is liable to cut down the exports of a country competing with a new Associated State. Lastly, there are cases that cannot be ignored where the foreign interests of individual Member States call for special consideration when Community arrangements are being made.

Another category covers processing industries that have to obtain their supplies at the lowest prices so as to establish their costs in relation to demand in a Common Market in the making.

In a third category are tariff quotas introduced on social grounds whose purpose is to keep consumer prices down during periods of inflation.

Finally, there are purely technical or largely political problems. Temporary solutions to some of these were adopted in the Rome Agreement of 2 March 1960 fixing customs duties for List G products. (The protocols to this Agreement provide for several tariff quotas under widely varying conditions.)

The Commission is not completely free to assess the degree of adaptation needed or to prescribe the size or duration of quotas and the rate of duty. Article 25, which is the legal basis for tariff quotas (other than those fixed by the List G protocols), lays down three criteria:

- a) For the products in Lists B, C and D - on which duties may not exceed respectively 3, 10 and 15% ad valorem - the Council, on a proposal by the Commission, grants quotas where the supply of a Member State traditionally depends to a considerable extent on imports from non-member countries;
- b) In the case of the products in List E, the Commission may itself grant quotas once it has established that a change in sources of supply or a shortage of supplies within the Community has had or is soon likely to have harmful consequences for the processing industries of the Member State concerned;
- c) Neither the Council nor the Commission may exceed the limits beyond which the danger might arise of a transfer of commercial activities contrary to the interests of other Member States.

When granting quotas for agricultural products, the Commission is required only to ensure that no serious disturbance on the market in the products in question results.

In fixing the rate of duty for a quota, the Council and the Commission have wide discretionary powers.

The Commission, supported by the Parliament, has endeavoured to win acceptance for its own legal interpretation, and an examination of its administration of tariff quotas to date would suggest that it has succeeded. The Council has also urged the Member States to exercise a certain self-discipline in the matter of tariff quotas.

The first applications for national tariff quotas date from 1961. On 1 January of that year the first alignment of national tariffs on the common customs tariff took place for industrial products. The following table shows how many applications have been made and how conservative the attitude of the Commission has been.

<u>Applications</u>		<u>Quotas granted</u>
1961	159	71
1962	278	104
1963	141	90
1964	99	77
1965	76	Decisions pending

The substantial increase from 1961 to 1962 is accounted for by the fact that the first alignment of national tariffs on the common tariff for agricultural products took place on 1 January 1962. Applications in 1961 concerned only industrial products, but there was then a flood of applications concerning agricultural products.

One may well ask what the total number of these tariff quotas represents. It is difficult to give an exact answer, but the 77 quotas granted in 1964, for instance, cover less than 3% of Community imports from non-member countries.

In its Action Programme the Commission proposed that national tariff quotas should be abolished at the same time as intra-Community customs duties, i.e. by 1 January 1967.

The Commission is making this a gradual process, cutting down the number of quotas each year. At the same time, the duties attaching to these quotas are raised. At the first alignment on the common tariff the rates of duty were equal to (never lower than) those in force on 31 December 1960 in the Member States concerned. In most cases they were in fact nil. By increasing the rates of duty, the Commission is endeavouring to maintain a balance between the various measures leading up to customs union.

These successive increases in the rates of duty, bringing them up to the level of the common customs tariff, will of course help to eliminate tariff quotas. Moreover, the Commission attempts to adjust the duty to prevent any hardship to a Member State, having due regard to the degree of interest of the other Member States in the final establishment of the common customs tariff. But increases are not always feasible, either because the provisions under which tariff quotas are granted do not so permit (some List G protocols) or because the economic situation in the Community will not allow of them. In these cases it is best to employ other measures, more especially Community tariff quotas.

A Community tariff quota in the full sense should be open for the Community as a whole and equally accessible to all Community importers at any point of entry in the EEC, at a single rate of duty and with the same administrative formalities. The goods imported should then be able to move freely from one Member State to another without customs duty.

As things stand at the moment, this ideal conception of a Community tariff quota is far from being realized.

There are, however, several cases which are stepping-stones on the way. These are either tariff quotas bound in GATT by the Community but allocated within the Community to the various Member States concerned, or quotas resulting from trade agreements and consisting simply in the sum of the six national quotas. Provisional rules of administration proposed by the Commission are now being studied in the Council, but there is little likelihood that a system of Community quotas will really work as long as intra-Community customs duties obstruct the free movement of goods among Member States.

In conclusion, despite the understandable hesitation of some Member States at the prospect of pragmatic pre-Treaty arrangements being replaced by a coherent system involving a harmonization of national legislation, tariff quotas in Community form are likely to become an important instrument of policy for resolving difficulties that might arise from the establishment of a complete internal market; they can be used to meet emergency needs and they can play a part in commercial policy towards non-member countries.
