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THE EC MOVES TO IMPLEMENT THE AGREEMENTS REACHED
IN THE MULTILATERAL TRADE NEGOTIATIONS

On December 17, 1979 the EC signed the different agreements negotiated in the course of the GATT Multilateral Trade Negotiations in Geneva.

As decided by the Council at its session of 21 November 1979, the tariff protocols have been signed both by the Community and Member States, the commitment of the latter relating to Community concessions on coal and steel products covered by the Treaty of Paris (ECSC). The Council and the Member States would sign the codes on "technical barriers" and "aircraft" alongside the Community, these two agreements were also signed by Member States. Although some of the Member States' signatures are conditional on ratification, it is clear that the Community has concluded the whole MTN package before January 1, 1980. The tariff concessions made by the Community as well as the different agreements concluded in the course of the Tokyo Round, will be published in the Official Journal in the near future.

Internal Implementation

By virtue of their conclusion by the Community, the agreements will be binding on the Community institutions and the Member States, which will thus be obliged to observe their provisions. According to the jurisprudence of the Court of Justice, the provisions of international agreements concluded by the Community prevail in the event of conflict over rules of internal law and confer on interested parties the right to rely upon them before the courts where such provisions are self-executing. The Community is also bound, as a party to the various agreements, to ensure that its internal laws, regulations and administrative procedures are compatible with the agreements in question.

In practice, many provisions of the agreements will not entail any special internal implementing measures. Some of them simply define objectives or rules of conduct for the public authorities, for which no internal legislative provisions are needed but to which the Community institutions and the Member States' authorities will of course have to adhere. There are other provisions in the agreements which are perfectly compatible with the internal provisions in force and so no changes would be necessary.

However, the Community institutions have had to, or will have to, take special measures to ensure the internal implementation of the agreements signed by the Community, where these agreements entail precise legal obligations and consequently require changes or additions to the arrangements hitherto in force.

The Community has already taken the necessary steps to implement the MTN package as from January 1, 1980 in three sectors:

- Industrial tariff reductions

The first installment of one eighth of the agreed tariff reductions is due to be implemented as of January 1, 1980. These reductions are incorporated in a Council Regulation amending the Common Customs Tariff for 1980, which is a regular annual exercise. Other points to be noted:

- on civil aircraft and parts the duty is suspended to zero as from January 1, 1980.
- on textiles and steel products, the first reduction is postponed till 1982;
- on some products, particularly those of interest to LDC's, the entire reduction will be implemented on January 1, 1980.

- Agricultural concessions

The Council has adopted five regulations implementing the concessions agreed in the MTN. These cover respectively:

- the prefixation of the import levy on beef;
- the opening of tariff quotas for beef for procession (50,000 tons), high quality beef (21,000 tons), buffalo meat (2,250 tons) and young cattle (230,000 head);
- the modification of the tariff classification for certain kinds of poultry meat;
- the calculation of levies and opening of tariff quotas for Cheddar (15,250 tons);

- the revisions of the Common Customs Tariff to incorporate the tariff reductions in the agricultural sector. For a large number of products the entire reduction will be implemented as from January 1, 1980. For the remaining products, the tariff reductions are being implemented in either four or eight annual installments, beginning in 1980.

It should be recalled that the Community already implemented in 1977 a considerable part of its offer on tropical products in the form of additional tariff suspensions within the GSP (22 new products, increased margins on 70 others).

- Anti-dumping and anti-subsidy

As part of the MTN package on new Codes covering action against dumped or subsidized imports, Community rules in this area have been modified with effect from January 1, 1980. The Commission submitted to the Council in October 1979 proposals for a new regulation on protection against dumped or subsidized imports from third countries. This has now been adopted by the Council. The Commission has, at the same time, adopted a recommendation introducing similar modified rules for coal and steel products covered by the Treaty of Paris.

The main innovation compared with the existing rules is the inclusion of detailed provisions for action against subsidized, as distinct from dumped, imports. These provisions include an extensive illustrative list of export subsidies, and lay down precisely how the amount of subsidy should be calculated in different possible circumstances, as well as enumerating the different factors which must be deducted to arrive at the net subsidy.

The second main change involves the rules on injury which will now apply for both dumped and subsidized imports. The previous rules, based on the 1968 GATT Anti-Dumping Code, required that dumping be shown to be the principal cause of any injury suffered, i.e. that it be more important than all other factors taken together. This has proved to be unrealistic in a time of economic recession where industries find themselves adversely affected by many different factors. The new rules, in line with the 1979 GATT Code, abandon the concept of principal cause, providing instead that injury caused by other factors must not be attributed to dumping or subsidies, without requiring, however, that the effect of dumping or subsidization be balanced against these other factors. In addition more precise rules for the definition of injury have been adopted, covering in particular the question of threat of injury and injury to regional markets within the Community.

There have also been a number of important procedural changes. All Community decisions, both positive and negative, as well as decisions to accept price undertakings, will now have to be explained in greater detail. The rules for disclosure of the grounds for such decisions are now made more flexible. Duties may be applied retroactively in cases where sporadic dumping has occurred or where undertakings have been breached. Furthermore, provisional duties may now be applied for four rather than three months and may more easily be extended by the Commission for an additional two months.

As regards the other multilateral agreements, the situation is as follows:

- Customs valuation

The agreement is designed to ensure a more uniform application of the principles set out in Article VII of the General Agreement. Under a bilateral arrangement the Community and the United States will apply the agreement as from January 7, 1980. Implementation will require the modification of existing Community law. A new regulation to replace a Council regulation of June 27, 1968 on the valuation of goods for customs purposes is under preparation. It will shortly be adopted and published in the Official Journal.

- Import licensing

Existing Council regulations as well as the relevant regulations in the agricultural sector, already cover the provisions of the agreements on import licensing procedures, and no new legal instrument will be required.

- Technical barriers to trade

A procedural decision is under preparation which lays down rules for internal coordination within the Community so as to ensure full and effective compliance with the provisions of the GATT agreement.

- Government procurement

The agreement, which extends the scope of the GATT to an area of trade hitherto expressly excluded, will not come into effect until 1981. A certain number of draft procedural amendments to EEC regulations are under discussion in the Council.

- Trade in civil aircraft

No additional legal instrument is required for the implementation of this agreement apart from the necessary tariff measures (duties on aircraft and parts included in the list are suspended to zero as from January 1, 1980 among the participants). The agreements on technical barriers and on subsidies will also apply to trade in civil aircraft.

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