

Treaty establishing the EEC - Articles relating to the Customs Union (25 March 1957)

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Treaty establishing the European Economic Community

PART TWO — Bases of the Community.....
TITLE I — Free Movement of Goods.....
Chapter 1 — The Customs Union.....
Section 1 — The elimination of customs duties as between Member States.....
Section 2 — Establishment of the Common Customs Tariff.....
Chapter 2 — The elimination of quantitative restrictions as between Member States.....

[...]

PART TWO — Bases of the Community

TITLE I — Free Movement of Goods

Article 9

1. The Community shall be based upon a customs union covering the exchange of all goods and comprising both the prohibition, as between Member States, of customs duties on importation and exportation and all charges with equivalent effect and the adoption of a common customs tariff in their relations with third countries.

2. The provisions of Chapter 1, Section 1 and of Chapter 2 of this Title shall apply to products originating in Member States and also to products coming from third countries and having been entered for consumption in Member States.

Article 10

1. Products having been entered for consumption in a Member State shall be deemed to be products coming from a third country in cases where, in respect of such products, the necessary import formalities have been complied with and the appropriate customs duties or charges with equivalent effect have been levied in such Member State and where such products have not benefited by any total or partial drawback on such duties or charges.

2. The Commission shall, before the end of the first year after the date of the entry into force of this Treaty, lay down the methods of administrative co-operation to be adopted for the application of Article 9, paragraph 2, taking due account of the need for reducing as far as possible the formalities imposed on trade.

Before the end of the first year after the date of the entry into force of this Treaty, the Commission shall lay down the provisions applicable, as regards trade between Member States, to goods originating in another Member State in whose manufacture products have been used on which the appropriate customs duties or charges with equivalent effect in the exporting Member State have not been levied or which have benefited by a total or partial drawback on such duties or charges.

When laying down such provisions, the Commission shall take due account of the rules for the elimination of customs duties within the Community and for the progressive application of the common customs tariff.

Article 11

The Member States shall take all appropriate measures to enable Governments to carry out, within the time-limits laid down, the obligations with regard to customs duties which are incumbent on them pursuant to this Treaty.

Chapter 1 — The Customs Union

Section 1 — The elimination of customs duties as between Member States

Article 12

Member States shall refrain from introducing, as between themselves, any new customs duties on importation or exportation or charges with equivalent effect and from increasing such duties or charges as they apply in their commercial relations with each other.

Article 13

1. Customs duties on importation in force between Member States shall be progressively abolished by them in the course of the transitional period under the conditions laid down in Articles 14 and 15.

2. Charges in force between Member States having an effect equivalent to customs duties on importation shall be progressively abolished by them in the course of the transitional period. The Commission shall, by means of directives, fix the timing of such abolition. It shall be guided by the rules mentioned in Article 14, paragraphs 2 and 3, and by the directives issued by the Council in application of the said paragraph 2.

Article 14

1. In respect of each product, the basic duty which shall be subject to the successive reductions shall be the duty applied on 1 January 1957.

2. The timing of the reductions shall be as follows:

(a) in the course of the first stage, the first reduction shall be made one year after the date of the entry into force of this Treaty; the second reduction shall be made eighteen months later; the third, at the end of the fourth year after the date of the entry into force of this Treaty;

(b) in the course of the second stage, a reduction shall be made eighteen months after the beginning of that stage; a second reduction, eighteen months after the preceding one; a third reduction shall be made one year later; and

(c) the reductions which still remain to be made shall be carried out in the course of the third stage; the Council, acting by means of a qualified majority vote on a proposal of the Commission, shall fix their timing by means of directives.

3. At the time of the first reduction, Member States shall, in respect of each product, bring into force as between themselves a duty equal to the basic duty less 10 per cent.

At the time of each subsequent reduction, each Member State shall reduce the total of the duties in such a way as to reduce by 10 per cent its total customs receipts as defined in paragraph 4, it being understood that the reduction in the case of each product shall be equal to at least 5 per cent of the basic duty.

In respect of products, however, on which a duty of more than 30 per cent would still remain, each reduction shall be equal to not less than 10 per cent of the basic duty.

4. The total customs receipts of each Member State, referred to in paragraph 3, shall be calculated by multiplying by the basic duties the value of its imports coming from other Member States during the year 1958.

5. Any special problems raised by the application of the preceding paragraphs shall be settled by directives issued by the Council acting by means of a qualified majority vote on a proposal of the Commission.

6. Member States shall report to the Commission as to the manner in which the preceding rules for the reduction of duties are applied. They shall endeavour to ensure that the reduction applied to the duties on each product shall amount:

- at the end of the first stage to at least 25 per cent of the basic duty; and
- at the end of the second stage to at least 50 per cent of the basic duty.

If the Commission finds that there is a danger that the objectives laid down in Article 13 and the percentages fixed in this paragraph not be achieved, it shall make any appropriate recommendations to the Member States.

7. The provisions of this Article may be amended by the Council acting by means of a unanimous vote on a proposal of the Commission and after the Assembly has been consulted.

Article 15

1. Independently of the provisions of Article 14, any Member State may, in the course of the transitional period, suspend in whole or in part the collection of the duties applied by it to products imported from other Member States. It shall inform the other Member States and the Commission thereof.
2. Member States hereby declare their willingness to reduce their custom duties in regard to other Member States more rapidly than provided for in Article 14 if their general economic situation and the situation of the sector concerned so permit.

The Commission shall make recommendations for this purpose to the Member States concerned.

Article 16

Member States shall abolish as between themselves, not later than at the end of the first stage, the customs duties on exportation and charges with equivalent effect.

Article 17

1. The provisions of Articles 9 to 15, paragraph 1, shall also apply to customs duties of a fiscal nature. Such duties shall not, however, be taken into consideration for the purpose of calculating either total customs receipts or the reduction in total duties referred to in Article 14, paragraphs 3 and 4.

Such duties shall, at each reduction, be lowered by not less than 10 per cent of the basic duty. Member States may reduce their duties more rapidly than is provided for in Article 14.

2. Member States shall, before the end of the first year after the entry into force of this Treaty, inform the Commission of their customs duties of a fiscal nature.

3. Member States shall retain the right to substitute for these duties an internal tax in accordance with the provisions of Article 95.

4. Where the Commission finds that in any Member State the substitution of such duty meets with serious difficulties, it shall authorise such State to retain the said duty provided that the State concerned shall abolish

it not later than six years after the date of the entry into force of this Treaty. Such authorisation shall be requested before the end of the first year after the date of the entry into force of this Treaty.

Section 2 — Establishment of the Common Customs Tariff

Article 18

Member States hereby declare their willingness to contribute to the development of international commerce and the reduction of barriers to trade by entering into reciprocal and mutually advantageous arrangements directed to the reduction of customs duties below the general level which they could claim as a result of the establishment of a customs union between themselves.

Article 19

1. Under the conditions and within the limits laid down below, the duties under the common customs tariff shall be at the level of the arithmetical average of the duties applied in the four customs territories covered by the Community.
2. The duties taken into account for calculating this average shall be those applied by Member States on 1 January 1957.

In the case of the Italian tariff, however, the duty applied shall be understood as being that levied before the temporary 10 per cent reduction. Furthermore, in the case of tariff headings in regard to which this tariff contains a conventional duty, this duty shall be substituted for the duty applied as defined above, provided that it does not exceed the latter by more than 10 per cent. If the conventional duty exceeds the applied duty as defined above by more than 10 per cent, the latter duty, increased by 10 per cent, shall be taken into account for calculating the arithmetical average.

With regard to the tariff headings contained in List A, the duties shown in that List shall, for the purpose of calculating the arithmetical average, be substituted for the duties applied.

3. The duties under the common customs tariff shall not exceed:
 - (a) 3 per cent in the case of products coming under the tariff headings mentioned in List B;
 - (b) 10 per cent in the case of products coming under the tariff headings mentioned in List C;
 - (c) 15 per cent in the case of products coming under the tariff headings mentioned in List D; and
 - (d) 25 per cent in the case of products coming under the tariff headings mentioned in List E; where, in respect of such products, the tariff of the Benelux countries contains a duty of not more than 3 per cent, such duty shall, for the purpose of calculating the arithmetical average, be raised to 12 per cent.
4. The duties applicable to products mentioned in List F shall be those laid down therein.
5. The Lists of tariff headings referred to in this Article and in Article 20 shall be set out in Annex I to this Treaty.

Article 20

The duties applicable to the products in List G shall be fixed by means of negotiation between the Member States. Each Member State may add further products to this List up to the limit of 2 per cent of the total value of its imports coming from third countries in the course of the year 1956.

The Commission shall take all appropriate steps in order that such negotiations shall be undertaken before the end of the second year after the date of the entry into force of this Treaty and concluded before the end of the first stage.

If, in the case of certain products, no agreement can be reached within these time-limits, the Council, acting up to the end of the second stage by means of a unanimous vote and subsequently by means of a qualified majority vote on a proposal of the Commission, shall fix the duties under the common customs tariff.

Article 21

1. Any technical difficulties which may arise in the application of Articles 19 and 20 shall be settled, within a period of two years after the date of the entry into force of this Treaty, by directives issued by the Council acting by means of a qualified majority vote on a proposal of the Commission.

2. Before the end of the first stage and, in any case, not later than at the date of the fixing of such duties, the Council, acting by means of a qualified majority vote on a proposal of the Commission, shall decide as to the adjustments required with a view to ensuring the internal harmony of the common customs tariff following the application of the rules laid down in Articles 19 and 20, particular account being taken of the degree of processing undergone by the various goods to which the common tariff applies.

Article 22

The Commission shall, within a period of two years after the date of the entry into force of this Treaty, determine the extent to which the customs duties of a fiscal nature mentioned in Article 17, paragraph 2, shall be taken into account for calculating the arithmetical average referred to in Article 19, paragraph 1. The Commission shall take due account of the protective aspect of such duties.

Within a period of not more than six months after the Commission has so determined, any Member State may request that the procedure provided for in Article 20 shall be applied to the product concerned; the limit prescribed in that Article shall not constitute a valid objection.

Article 23

1. For the purpose of the progressive introduction of the common customs tariff, Member States shall amend their tariffs applicable to third countries in the following manner:

(a) in the case of tariff headings on which the duties in fact applied on 1 January 1957 do not differ by more than 15 per cent in either direction from the duties under the common customs tariff, the latter duties shall be applied at the end of the fourth year after the date of the entry into force of this Treaty;

(b) in the case of the other tariff headings, each Member State shall, as from the same date, apply a duty which reduces by 30 per cent the difference between the duty in fact applied on 1 January 1957 and that under the common customs tariff;

(c) at the end of the second stage this difference shall again be reduced by 30 per cent; and

(d) in the case of tariff headings for which the duties under the common customs tariff are not yet known at the end of the first stage, each Member State shall, within a period of six months after the Council has acted in accordance with the provisions of Article 20, apply such duties as shall result from the application of the rules contained in this paragraph.

2. Any Member State, which has been granted the authorisation provided for in Article 17, paragraph 4, shall, for as long as that authorisation is valid, be exempted from applying the preceding provisions to the tariff headings covered by the authorisation. At the expiry of such authorisation, the Member State

concerned shall apply such duty as would result from the application of the rules contained in the preceding paragraph.

3. The common customs tariff shall be applied in its entirety not later than at the date of the expiry of the transitional period.

Article 24

With a view to aligning their duties with the common customs tariff; Member States shall be free to modify these duties more rapidly than is provided for in Article 23.

Article 25

1. If the Commission finds that the production in the Member States of certain products contained in Lists B, C and D is not sufficient to supply the demands of one of them and that such supply traditionally depends to a considerable extent upon imports coming from third countries, the Council, acting by means of a qualified majority vote on a proposal of the Commission, shall grant to the Member State concerned tariff quotas at a reduced rate of duty or duty free.

Such quotas may not exceed the limits beyond which the transfer of activities to the detriment of other Member States is to be feared.

2. In respect of the products in List E and those in List G for which the duties shall have been fixed in accordance with the procedure provided for in Article 20, third paragraph, the Commission shall, at the request of any Member State concerned, grant to such State tariff quotas at a reduced rate of duty or duty free, where a change in sources of supply or a shortage of supplies within the Community is of such a nature as to entail harmful consequences for the processing industries of the Member State concerned.

Such quotas may not exceed the limits beyond which the transfer of activities to the detriment of other Member States is to be feared.

3: In respect of the products listed in Annex II to this Treaty, the Commission may authorise any Member State to suspend, in whole or in part, the collection of the duties applicable or may grant to such Member State tariff quotas at a reduced rate of duty or duty free, provided that no serious disturbance in the market of the products concerned may result therefrom.

4. The Commission shall periodically examine any tariff quotas granted in application of this Article.

Article 26

The Commission may authorise any Member State encountering special difficulties to postpone the lowering or the raising, in accordance with the provisions of Article 23, of the duties on certain headings of its tariff.

Such authorisation may only be granted for a limited period and for tariff headings which together represent for such State not more than 5 per cent of the value of its total imports coming from third countries in the course of the latest year for which statistical data are available.

Article 27

Before the end of the first stage, Member States shall, in so far as may be necessary, take steps to approximate their legislative and administrative provisions in regard to customs matters. The Commission shall for this purpose make all appropriate recommendations to Member States.

Article 28

Any autonomous modification or suspension of duties of the common customs tariff shall be decided upon by the Council acting by means of a unanimous vote. After the expiry of the transitional period, the Council, acting by means of a qualified majority vote on a proposal of the Commission, may, however, decide upon modifications or suspensions not exceeding 20 per cent of the rate of any duty and effective for a maximum period of six months. Such modifications or suspensions may only be extended, under the same conditions, for a second period of six months.

Article 29

In carrying out the tasks entrusted to it under this Section, the Commission shall be guided by:

- (a) the need for promoting commercial exchanges between the Member States and third countries;
- (b) the development of competitive conditions within the Community to the extent to which such development will result in the increase of the competitive capacity of the enterprises;
- (c) the Community's requirements of supply in raw materials and semi-finished goods, while at the same time taking care not to distort competitive conditions between Member States with regard to finished goods; and
- (d) the need for avoiding serious disturbances in the economic life of Member States and for ensuring a rational development of production and an expansion of consumption within the Community.

Chapter 2 — The elimination of quantitative restrictions as between Member States

Article 30

Quantitative restrictions on importation and all measures with equivalent effect shall, without prejudice to the following provisions, hereby be prohibited between Member States.

Article 31

Member States shall refrain from introducing as between themselves any new quantitative restrictions or measures with equivalent effect.

This obligation shall, however, only apply to the level of liberalisation attained in application of the decisions of the Council of the Organisation for European Economic Co-operation of 14 January 1955. Member States shall communicate to the Commission, not later than six months after the date of the entry into force of this Treaty, the lists of the products liberalised by them in application of these decisions. The lists thus communicated shall be consolidated between Member States.

Article 32

Member States shall, in their mutual trade, refrain from making more restrictive the quotas or measures with equivalent effect in existence at the date of the entry into force of this Treaty.

Such quotas shall be abolished not later than at the date of the expiry of the transitional period. In the course of this period, they shall be progressively abolished under the conditions specified below.

Article 33

1. Each of the Member States shall, at the end of one year after the entry into force of this Treaty, convert any bilateral quotas granted to other Member States into global quotas open, without discrimination, to all other Member States.

On the same date, Member States shall enlarge the whole of the global quotas so established in such a way as to attain an increase of not less than 20 per cent in their total value as compared with the preceding year. Each global quota for each product shall, however, be increased by not less than 10 per cent.

The quotas shall be increased annually in accordance with the same rules and in the same proportions in relation to the preceding year.

The fourth increase shall take place at the end of the fourth year after the date of the entry into force of this Treaty; the fifth increase shall take place at the end of a period of one year after the beginning of the second stage.

2. Where, in the case of a product which has not been liberalised, the global quota does not amount to 3 per cent of the national output of the State concerned, a quota equal to not less than 3 per cent of such output shall be established not later than one year after the date of the entry into force of this Treaty. At the end of the second year, this quota shall be raised to 4 per cent and at the end of the third year to 5 per cent. Thereafter, the Member State concerned shall increase the quota by not less than 15 per cent annually.

In the case where there is no such national output, the Commission shall fix an appropriate quota by means of a decision.

3. At the end of the tenth year, each quota shall be equal to not less than 20 per cent of the national output.

4. Where the Commission, acting by means of a decision, finds that in the course of two successive years the imports of any product have been below the level of the quota granted, this global quota may not be taken into consideration for the purpose of calculating the total value of the global quotas. In such case, the Member State shall abolish the quota for the product concerned.

5. In the case of quotas representing more than 20 per cent of the national output of the product concerned, the Council, acting by means of a qualified majority vote on a proposal of the Commission, may reduce the minimum percentage of 10 per cent laid down in paragraph 1. This modification shall not, however, affect the obligation annually to increase the total value of global quotas by 20 per cent.

6. Member States which have gone beyond their obligations concerning the level of liberalisation attained in implementation of the decisions of the Council of the Organisation for European Economic Co-operation of 14 January 1955 shall, when calculating the annual total increase of 20 per cent provided for in paragraph 1, be entitled to take into account the amount of imports liberalised by autonomous measures. Such calculation shall be submitted to the Commission for its prior approval.

7. Directives issued by the Commission shall lay down the procedure and the timing according to which Member States shall abolish as between themselves any measures which exist at the date of the entry into force of this Treaty and which have an effect equivalent to quotas.

8. If the Commission finds that the application of the provisions of this Article and, in particular, of the

provisions concerning percentages does not make it possible to ensure the progressive nature of the abolition of quotas provided for in Article 32, second paragraph, the Council, acting during the first stage by means of a unanimous vote and subsequently by means of a qualified majority vote on a proposal of the Commission, may amend the procedure referred to in this Article and may, in particular, raise the percentages fixed.

Article 34

1. Quantitative restrictions on exportation and any measures with equivalent effect shall hereby be prohibited as between Member States.

2. Member States shall abolish, not later than at the end of the first stage, all quantitative restrictions on exportation and any measures with equivalent effect in existence at the date of the entry into force of this Treaty.

Article 35

Member States hereby declare their willingness to abolish, in relation to other Member States, their quantitative restrictions on importation and exportation more rapidly than is provided for in the preceding Articles, if their general economic situation and the situation of the sector concerned so permit.

The Commission shall make recommendations for this purpose to the States concerned.

Article 36

The provisions of Articles 30 to 34 inclusive shall not be an obstacle to prohibitions or restrictions in respect of importation, exportation or transit which are justified on grounds of public morality, public order, public safety, the protection of human or animal life or health, the preservation of plant life, the protection of national treasures of artistic, historical or archaeological value or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute either a means of arbitrary discrimination or a disguised restriction on trade between Member States.

Article 37

1. Member States shall progressively adjust any State monopolies of a commercial character in such a manner as will ensure the exclusion, at the date of the expiry of the transitional period, of all discrimination between the nationals of Member States in regard to conditions of supply or marketing of goods.

The provisions of this Article shall apply to any body by means of which a Member State shall *de jure* or *de facto* either directly or indirectly control, direct or appreciably influence importation or exportation between Member States. These provisions shall apply also to monopolies assigned by the State.

2. Member States shall abstain from any new measure which is contrary to the principles laid down in paragraph 1 or which may limit the scope of the Articles relating to the abolition, as between Member States, of customs duties and quantitative restrictions.

3. The timing of the measures referred to in paragraph 1 shall be adapted to the abolition, as provided for in Articles 30 to 34 inclusive, of the quantitative restrictions on the same products.

In cases where a product is subject to a State monopoly of a commercial character in one Member State or certain Member States only, the Commission may authorise the other Member States to apply, for as long as the adjustment referred to in paragraph 1 has not been carried out, measures of safeguard of which it shall determine the conditions and particulars.

4. In the case of a monopoly of a commercial character which is accompanied by regulations designed to facilitate the marketing or the valorisation of agricultural products, it should be ensured that in the application of the rules of this Article equivalent guarantees are provided in respect of the employment and standard of living of the producers concerned, due account being taken of the timing in respect of possible adjustments and of necessary specialisations.

5. The obligations incumbent on Member States shall be binding only to such extent as they are compatible with existing international agreements.

6. The Commission shall, as soon as the first stage has begun, make recommendations as to the particulars and the timing according to which the adjustments referred to in this Article shall be carried out.

[...]