

'Portugal and Spain join the Community' from the EFTA Bulletin (April 1986)

Caption: In April 1986, in an article in the periodical EFTA Bulletin, Sven Norberg, Director of Legal Affairs in the Secretariat of the European Free Trade Association (EFTA), analyses the consequences of the accession of Portugal and Spain to the European Economic Community (EEC) for the future of EFTA.

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Portugal and Spain join the Community

The consequences for EFTA

by Sven Norber

On 12 June 1985 Heads of Government and representatives of the ten EC Member States and of Portugal and Spain signed the treaty on the accession of Portugal and Spain to the European Communities. This marked the successful end of more than eight years of negotiations for the third enlargement of the European Community (EC).

For the EFTA countries this meant that Portugal, one of EFTA's founding members, would leave EFTA to join the Community at the end of the same year and that their first and only multilateral Free Trade Agreement with a non-EFTA country, the EFTA-Spain Agreement of 1979, would lapse at the end of the year. It would, however, also imply that their Free Trade Agreements (FTAs) with the European Communities (the EEC and the ECSC) would govern trade with Portugal and Spain, thus enlarging the European free trade system to comprise 350 million people.

Since, however, the instruments concerning the accession of Portugal and Spain to the EC provide in principle for a transitional period of seven years before all duties and quotas are abolished and the accession can take full effect, it was evident that transitional arrangements would have to be negotiated with the EFTA countries concerning the application during a transitional periods of the EFTAs. The aim of this article is to report briefly on these negotiations and their outcome.

Portugal in EFTA

As early as May 1977 the EFTA countries expressed their understanding for and sympathy with the application for membership of the EC that Portugal had submitted in March that year. This manifestation of support was repeated by the EFTA Councils on many occasions over the years. At the ministerial meeting in November 1985 the Sven Norberg is Director of Legal Affairs in the EFTA Secretariat.

EFTA Ministers expressed their appreciation of the spirit of cooperation that had characterized the relations between Portugal and the other EFTA countries throughout EFTA's twenty-five years. They also noted with satisfaction that the essence of the free trade between them would be preserved through the FTAs which link each of the remaining EFTA countries with the EC. The EFTA Industrial Development Fund for Portugal would also continue to make a valuable contribution to the economic relations between Portugal and the EFTA countries.

EFTA and Spain

The multilateral Free Trade Agreement between the EFTA countries and Spain came into force on 1 May 1980. The objective of the agreement was to eliminate all tariffs and other trade restrictions on substantially all the trade between the seven EFTA countries and Spain and thus to pave the way for the inclusion of Spain in the European free trade system comprising the EFTA and EC countries. The starting point for the negotiations had been the trade agreement of 1970 between the EC and Spain.

Throughout the five-and-a-half years that the EFTA-Spain Agreement lasted, the main objective of the parties had been to see to it that any further concessions on industrial products given by Spain to the EC would also be granted to the EFTA countries and that any such concession by the EC to Spain would likewise be granted by the EFTA countries. The agreement thus served as a smooth preparation for the trade relations between the EFTA countries and Spain after that country's accession to the European Community.

With regard to Spain the EFTA Ministers in 1985 expressed satisfaction that agreement had been reached on the accession of Spain to the Community, as a result of which the objective of the EFTA-Spain Agreement would be fulfilled.

The expiration of the EFTA-Spain Agreement implied also the lapsing of the bilateral agricultural agreements concluded in connection therewith by the individual EFTA countries and Spain.

The accession agreement between the European Community, Portugal and Spain

From a trade point of view the main principle laid down in the instruments of accession is that import duties on trade between the EC 10 (the EC as it was before 1 January 1986) and the two acceding countries are to be abolished according to somewhat differing timetables ending with the complete abolition of all duties by 1 January 1993 (for certain agricultural products, three years later), the first reduction taking place on 1 March 1986.

Apart from this general principle the accession instruments in the trade field contain a considerable number of particular provisions for the transitional period, concerning, among other things, the treatment of trade in certain industrial and agricultural products, the elimination of tariff quotas and of quantitative restrictions on imports and exports.

As far as Spain is concerned, the provisions of particular interest to the EFTA countries concerned the Spanish tariff quota system in operation until 31 December 1988, the maintenance of quantitative restrictions on imports of sixteen groups of products until the end of 1988 or 1989, the export of textiles from Spain to the Community, the export of steel from Spain to the Community until the end of 1989, and the treatment of trade in processed agricultural products. Moreover, the treatment of trade with the Canary Islands and the territories of Ceuty and Melilla constituted an item of particular interest to Spain.

Regarding trade with Portugal, it is worth recalling that already under the Stockholm Convention trade in most products which were also covered by the FTAs with the EC was free. The products for which tariffs now would have to be reduced were, therefore, fewer than in the case of Spain and for the most part were those on which Portugal had been permitted, by way of exception, to introduce or maintain special duties in accordance with Annex G of the Stockholm Convention. The provisions of the accession agreement which were of particular interest to the EFTA countries referred instead to the abolition of the Portuguese ad valorem charges, that of 0.4 per cent and that of 0.9 per cent, to be abolished by 1 January 1988 and 1 January 1991 respectively, and the elimination of quantitative restrictions on imports and exports since Portugal was to be allowed to maintain a number of import quotas, inter alia on motor vehicles for a couple of years. In addition, the particular rules concerning the trade in textiles, fish and processed agricultural products were also of interest to the EFTA countries. Since the Stockholm Convention covers a somewhat wider range of products than the FTAs, the progressive introduction in Portugal of Community tariffs was particularly important for the EFTA countries, because it would be decisive for the judging of the question of the reintroduction of duties on the Portuguese side for products which would lose their free trade treatment under the Stockholm Convention.

The EFTA approach

Although the EFTA countries had started as early as the late 'seventies to prepare for the consequences of Portugal's accession to the European Community, it was only after the outcome of all the accession negotiations that they could take a final stand as to the aims for their negotiations with the EC. The general aim, however, had been made clear at a very early stage and communicated on various occasions to the EC, its Member countries and the two acceding countries. This was that the treatment given to all EFTA countries in the Portuguese and Spanish markets should be identical to that granted to the EC 10, while at the same time the EFTA countries would not treat imports from Portugal and Spain more favourably than the treatment given by the EC 10.

In addition, an objective established early was that the accession of Portugal and Spain to the EC should not lead to the creation of new barriers to trade with the EFTA countries. To the greatest extent possible the free trade established under the Stockholm Convention and the EFTA-Spain Agreement should be maintained. The accession of Spain and Portugal to the EC and their integration into the common fisheries and agricultural policies could imply that certain concessions on fisheries and agriculture might be lost to the

EFTA countries. Another objective was therefore to maintain the concessions as long as possible or alternatively to obtain compensation for those concessions that would have to be given up.

The FTAs being of a bilateral nature and concluded between each individual EFTA country and the Communities, the Additional Protocols to be negotiated would also naturally have to follow the same pattern. However, the EFTA countries prepared themselves jointly from an early stage. They also agreed to carry out the negotiations in full coordination and, as far as possible, jointly. To this end, in October 1985 they presented the EC with the first suggestions for draft Additional Protocols to the FTAs in which they followed the general aims described above.

When the negotiations started it soon became apparent that the negotiating mandate given to the EC Commission by the EC Council required the EFTA countries to allow duty-free imports from Spain from 1 January 1986, while Spanish trade with the EC 10 would not be free from duties until the end of 1992. This being unacceptable to the EFTA countries, the EFTA Ministers, at the ministerial meeting of the EFTA Councils in November 1985, underlined the firm position of the six EFTA countries that the dismantling of duties would have to take place on the basis of strict reciprocity, providing for a treatment of their countries which was fully equal to that received and given by the Community. In practical terms this means that industrial imports into Spain from the EFTA countries should be given the same treatment during the transitional period of seven years as imports from the EC, and that industrial imports from Spain would be given the same treatment by their countries as such imports receive in the EC.

The negotiations

It would be an understatement to say that the negotiations took place under considerable time pressure. There were several reasons for this. Firstly, while in the case of the accession of Greece to the Community the accession treaty was signed in May 1979 and became effective more than one and a half years later, on 1 January 1981, the result of the extensive negotiations with Portugal and Spain was signed only on 12 June 1985 to become effective some six months later. Secondly, the EC Council, with Portugal and Spain participating in an observer capacity, was unable to agree before the end of October 1985 on a mandate for the negotiations with the EFTA countries. Since, however, it became clear that negotiations based on this mandate would not lead to an outcome acceptable to the EFTA countries on several decisive points, real negotiations could not begin until the second half of January 1986, with only some six weeks left before the first tariff reductions were to take place for trade between Portugal and Spain and the EC 10.

When the negotiations on the Additional Protocols to the FTAs came to a halt in early December 1985, it became evident that a temporary agreement would have to be found to regulate trade between the EFTA countries and Portugal and Spain as from 1 January 1986. Otherwise, the FTAs with the EC would become fully applicable to trade with the enlarged Community without any transitional provisions for Portugal and Spain.

Since the first tariff reductions for trade between the new Member countries and the EC 10 would take place on 1 March 1986, it was furthermore of the greatest importance for the EFTA countries to have an agreement by then concerning the transitional period. If not, their objective of keeping pace with the EC and securing a parallel treatment to the EC 10 would fail.

It was against this background that the EFTA countries and the Community reached agreement in December 1985 that, without prejudice to the outcome of the negotiations in progress, the arrangements applicable to trade in January and February 1986 between each of the EFTA countries, on one hand, and Portugal and Spain, on the other, should continue to be those that applied before accession. It may be noted, as a matter of curiosity, that thanks to this standstill agreement the EC, which was responsible for the trade relations of Portugal and Spain from the date of their accession, had to apply both the EFTA Convention and the EFTA-Spain Agreement on behalf of these two countries during the first two months of 1986.

When the negotiations between the EC Commission and the EFTA countries resumed in the second half of January 1986, it was possible to negotiate and conclude in five weeks a rather complex package of

agreements which was concluded by the initialling of twelve Additional Protocols to the FTAs in the early hours of 22 February 1986. For each EFTA country there was one protocol regarding the EEC and one regarding the ECSC, including a considerable number of Annexes and exchanges of letters, etc. Taking into account that these agreements also had to be produced in thirteen languages (the nine EC languages and the four Nordic EFTA languages), each text being equally authentic, it was agreed that, if the agreements could not formally enter into force on 1 March 1986 because of the time necessary for internal approval procedures required on both sides, each party would take the necessary measures to allow the provisional application as from that date.

The outcome

The outcome of the negotiations implies, in principle, the following.

From 1 March 1986 the EFTA countries and Spain will dismantle tariffs on industrial goods step by step over seven years to the end of 1992. The timetable is identical to that applicable for trade between Spain and the EC 10 and the annual reductions take place in steps of 10, 12.5, 15, 15, 12.5, 12.5, 12.5 and 10 per cent. The basic duties to which the reductions are to be applied are in principle those in force on 1 January 1985. Corresponding tariff dismantlement in steps of 10, 10, 15, 15, 10, 10, 15 and 15 per cent are to take place with regard to trade with Portugal but this is of less importance since most of the trade concerned is already duty-free because of Portugal's previous membership of EFTA.

For some goods, mainly agricultural and fishery products, that previously had been duty-free under the Stockholm Convention but which are not covered by the FTAs, duties will be reintroduced. For those products which in the EC are treated as agricultural goods the whole duty will be reintroduced in one step, while for other goods the duty will be reintroduced gradually during this seven-year period.

Regarding trade in industrial goods, where a particular concern was paper and steel traded with Spain, the EFTA countries have been assured the same treatment as the EC 10. Another special concern for some of the EFTA countries related to the trade in textiles with Portugal. The final agreement here stipulates that this trade will be free from any restrictions as from 1990.

During the transitional period Spain is allowed to maintain quotas for imports from the EC 10 and from the EFTA countries of products in sixteen specified product categories. Regarding the EFTA countries, these are "global quotas" open for all of them. Among the more important products in these categories are certain sewing machines and colour television sets. During the first years particular provisions govern the imports into Spain and Portugal of motor vehicles. The result of the negotiations which on this point mainly concerned Sweden is broadly similar to what had been agreed for the EC 10.

Concerning trade in agricultural goods and fisheries products, the outcome varies more from one EFTA country to another. It implies, however, that a number of particular concerns regarding EFTA exports to the enlarged Community have been met. Achievements in this field have been balanced by some concessions on the EFTA side.

Finally, in principle, imports from the Canary Islands, Ceuta and Melilla are to be treated like similar imports from Spain, while exports to those territories are to enjoy the same treatment as is applied to products originating in the Customs territory of the EC.

Some comments

From an EFTA point of view the outcome of these negotiations must be considered most satisfactory. After extensive and difficult negotiations the Community abandoned its basic requirement of an immediate and unilateral duty-free access for Spanish products to the EFTA countries. The EFTA countries managed to obtain a package solution covering trade in industrial and agricultural goods and fisheries products, and guaranteeing them exactly the same treatment for trade with Portugal and Spain as is applicable to the EC 10. It was thus possible for the first tariff reductions to be made at the same time, on 1 March 1986, in

relations between Spain and Portugal and both the EC and EFTA.

For EFTA relations with the EC in general these negotiations must also be considered as very satisfactory. This seems mainly to be due to the excellent co-ordination and cooperation between the EFTA countries during the negotiations. In particular it is obvious that the common front kept by the EFTA countries during this process, in spite of their differing individual interests, very much strengthened not only their common position but also their individual cases. This was no doubt also a good sign and example for future EFTA-EC activities both as part of the intensified cooperation undertaken in accordance with the Luxembourg Declaration and in relation to the Community's efforts to complete its internal market as proposed in the EC White Paper.