Treaty Establishing the European Economic Community

In a number of articles that have recently appeared in the International Labour Review *reference has been made to the signature in March 1957 of the Treaty Establishing the European Economic Community between France, the Federal Republic of Germany, Italy, Belgium, the Netherlands and Luxembourg.*[1] *The principal provisions of the Treaty, which has already been ratified by the first three of the countries mentioned, are briefly summarised below.*

Objective

The aim of the Treaty is to establish a large, united economic area with a powerful combined production potential, where gradual removal of differences between the economic policies of member countries will promote " harmonious development of economic activities, continuous and balanced expansion, increased stability, a more rapid improvement in the standard of living and closer relations between its member States ".[2]

Historical Background

The idea was launched at the Messina Conference (1-2 June 1955) by the Ministers of Foreign Affairs of the six countries which belong to the European Coal and Steel Community. Next, an intergovernmental committee, with Mr. Spaak (Minister for Foreign Affairs of Belgium) in the chair, prepared a first report ; this came before the Six at Venice on 29 May 1956 and served as a basis for the drafting of the twin treaties concerning the creation of the European Economic Community and of the European Atomic Energy Commission (Euratom). There followed several other meetings—at Brussels (26 June 1956), when it was decided to set up two working parties, one on the common market and the other on Euratom ; at Paris (20-21 October 1956) ; at Brussels again (16 November 1956), when it was decided to set up a further working party to study ways and means of integrating overseas territories. These led up to definition of the final texts, and the Treaty was signed in Rome on 25 March 1957. Its provisions, which have been submitted to the national parliaments for ratification, will come into force, in principle, on the first day of the month following that on which they are ratified by the last signatory State to do so.

Operation of the Common Market

Machinery

The Treaty provides for the establishment of a customs union with a common external tariff ; there will be no discrimination between

[1] See, in particular, Vol. LXXVI, No. 3, Sep. 1957, p. 244, and Vol. LXXV, No. 3, Mar. 1957, p. 174.

[2] Article 2 of the Treaty. The quotations are from the provisional translation by the Secretariat of the Intergovernmental Conference on the Common Market and Euratom.

suppliers and customers within the union. The common tariff will be determined, in principle, by the arithmetical average of duties in the four customs areas [1] on 1 January 1957.[2] Maximum rates of duties are laid down for various classes of goods (3 per cent. for raw materials, 10 per cent. for semi-manufactured products, 25 per cent. for hydrocarbons); but these special measures do not apply to finished goods. Application of the new common tariff will involve negotiations within the framework of the General Agreement on Tariffs and Trade (G.A.T.T.), which are indeed already going on.

At the same time, all quantitative restrictions on trade among the member countries are to be abolished.[3]

Establishment of the common market will not merely affect the exchange of products; it will also involve abolition of all restrictions on international transactions regarding services, whether in industry, commerce or the professions. Movements of capital and manpower within the area of the European Community are also to be made free [4], and a common policy is to be worked out for transport by rail, road and navigable waterway.[5]

All restrictive practices, by individual firms or by governments, are to be abolished. The only classes of government aid regarded as compatible with the Community are assistance in case of natural calamities, social assistance and contributions to the development of economically backward regions. Outside these fields government intervention must be strictly limited to projects serving the interests of Europe as a whole.[6]

As regards labour, account is taken of French requests that labour costs throughout the area should be brought closer together. Accordingly the Treaty includes clauses to the effect that the other participating countries shall apply the principle of equal pay for equal work as between male and female workers [7] and that " member States shall endeavour to maintain the existing equivalence of paid holiday schemes".[8] France had asked, further, that the other countries should accept her system of overtime payment; this is not made a contractual obligation by the Treaty, but the parties state, in a Protocol [9], that they consider establishment of the common market will result in application of that system. France's right to have recourse to an escape clause is also recognised in case labour costs are not sufficiently lined up and if existing disparities disturb the French economy to an extent considered intolerable.

The Treaty also provides that the overseas territories attached to participating countries shall be associated with the Community by the following means [10]: first of all, member countries are to give goods from these territories the same treatment as goods from other member

[1] Benelux, France, Federal Republic of Germany, Italy.

[2] Article 19. This average is the upper limit authorised for new customs unions by article 24 of the General Agreement on Tariffs and Trade (G.A.T.T.).

[3] Articles 30 to 37.

[4] Articles 48 to 73.

[5] Articles 74 to 84. The questions of sea and air traffic may be decided later on (article 84, paragraph 2).

[6] Articles 85 to 94.

[7] Article 119.

[8] Article 120.

[9] Protocol relating to certain provisions of concern to France, II.

[10] Articles 131 to 136.

countries ; secondly, an overseas territory will be entitled to maintain import duties on goods coming from members of the Community, but will be required to apply the same duties as to goods from the European country with which it has a special relationship ; thirdly, under an Applicatory Convention, which is annexed to the Treaty and will hold good for five years, the six common market countries will jointly finance part of the basic capital investment of the overseas territories. With this object in view a " Development Fund for the Overseas Countries and Territories " will be established, totalling 581,250,000 dollars, the contributions of the various countries being fixed as follows :

	Millions of dollars
France and Germany (Fed. Rep.)	200
Belgium and the Netherlands	70
Italy	40
Luxembourg	1.25

These amounts will be paid by instalment during the five years for which the Convention is concluded. The territories in question are as follows : French West Africa, French Equatorial Africa, St. Pierre and Miquelon ; Comoro Islands ; Madagascar and Dependencies ; French Somaliland ; New Caledonia and Dependencies ; French Establishments in Oceania ; Southern and Antarctic Territories ; Autonomous Republic of Togoland ; Cameroons under French Trusteeship ; Belgian Congo and Ruanda-Urundi ; Somalia under Italian Trusteeship ; and Netherlands New Guinea.[1] Negotiations are proceeding on the eventuality of associating Morocco and Tunisia. As a rule the provisions of the Treaty are directly applicable to Algeria and the Overseas Departments of France.[2]

In case of difficulties or serious threat of difficulties regarding the balance of payments of a member State, the Community may assist the country in difficulties, on recommendation by the Commission [3] and decision by the Council [3] ; this assistance may in particular take the form of credits from other member States. If any mutual aid which the members of the Community may thus render one to another should prove insufficient the Commission will authorise the State in difficulties to take action for its own protection, and even the provisional re-establishment of restrictions on imports is not excluded. In case of urgency, if its balance of payments situation so requires, the member State concerned may take " the measures necessary for its protection " without awaiting the decision of the above authorities, but the Commission and the other member States must be kept informed and the Council may decide on amendment, suspension or abolition of the protective action.[4]

Transitional Period

Establishment of the Community will be gradual. Total abolition of customs duties between the common market countries is to be achieved in a 12-year period, divided into three stages of four years each. Duties

[1] Annex IV.
[2] Article 227.
[3] These institutions are described on p. 406 below.
[4] Articles 108 and 109. Provision is also made for the taking of protective measures in another case, namely " during the transitional period, in case of serious difficulties which are likely to persist in any sector of economic activity, or difficulties which may seriously impair the economic situation in any region " (article 226) ; but here a decision by the other members of the Community is required.

are to be reduced by 30 per cent. during each of the first two stages, and by 40 per cent. in the third. This progressive reduction will be effected as follows : in the first year a 10 per cent. reduction (for each product) in the basic duty—namely that applicable on 1 January 1957 ; then, during four " substages " of 18 months each and one of 12 months, further reductions of 10 per cent. each in total customs receipts, these being calculated by multiplying the value of imports from other member States in 1956 by the basic duties. In the case of each product the duty must be reduced by at least 5 per cent. during each of the substages, member States remaining free to make reductions of over 10 per cent. on other products so as to keep to the general average of 10 per cent. At the end of the first stage the average reduction will thus be at least 30 per cent. ; the duty on each product must have been reduced by at least 25 per cent. At the end of the second stage the average reduction will be at least 60 per cent. and that on each product at least 50 per cent. However, the right to reduce by less than the average rate does not apply to products on which there would still remain a duty of over 30 per cent. *ad valorem* ; so that, as regards the duty on these products, the minimum reduction in each substage may not be less than 10 per cent. The remaining reductions will be carried out in the third stage ; the Council, voting with the " prescribed " majority [1] on a proposal by the

PROGRESSIVE REDUCTION OF CUSTOMS BARRIERS

Stage	Duration	Percentage rate of reduction	
		Average	Minimum for any product
First stage :			
1st substage	12 months	10	10
2nd substage	18 months	10	5 [1]
3rd substage	18 months	10	5 [1]
Total . . .	4 years	30	25 [1]
Second stage :			
1st substage	18 months	10	5 [1]
2nd substage	18 months	10	5 [1]
3rd substage	12 months	10	5 [1]
Total . . .	4 years	30	25 [1]
Third stage [2]	4 years	40	50
Total period . . .	12 years	100	100

[1] Minimum reduction of 5 per cent., save exceptions (see text) and provided the reduction amounts at least to 25 per cent. at the end of the first stage and 50 per cent. at the end of the second. [2] Rate to be determined subsequently.

[1] The majority required in such cases will be 12 votes : France, the Federal Republic of Germany and Italy have four votes each, Belgium and the Netherlands two votes each, and Luxembourg one vote.

Commission, will determine the timing.[1] The accompanying table summarises the scheme for the reduction of customs barriers.

Abolition of customs duties will thus be complete at the end of 12 years. But if the Council does not reach agreement at the end of the first four-year stage on the advisability of passing to the next, the first stage can be extended for a year, twice, at the desire of any member State. At the end of the sixth year, however, unanimity ceases to be necessary and the Council will decide, by the " prescribed " majority, on passage to the second stage. Any member may appeal from this decision to an Arbitration Board consisting of three members appointed by the Council. This Board must give its award within six months, so that—counting the time required for appointment of the arbitrators—the first stage can last for a little less than seven years if any one of the members of the Community so desires. The duration of the second and third stages, on the other hand, can only be modified by unanimous decision of the Council. In any case, under the Treaty the transitional period cannot be extended beyond a total duration of 15 years.[2]

Special Provisions

Customs duties of a fiscal character [3] are not taken into consideration for the purpose of calculating either total customs receipts or the reduction in total duties by stages. However, duties of a fiscal character are to be reduced by at least 10 per cent. of the basic duty at each substage. The member States retain the right to replace these duties by internal taxes, and if such replacement gives rise to serious difficulty they may even be authorised by the Commission to retain the duties for a maximum of six years.[4]

France is authorised to maintain its system of aid to exports and taxes on imports until the balance of current payments of the franc area has remained in equilibrium for more than one year and until its monetary reserves have reached a level considered as satisfactory having regard, in particular, to the volume of its external trade.[5]

Agricultural products are not exempt from the rules of the common market. However, in view of the particular economic and social structure of agriculture, special arrangements are to be made to temper the effects of unification during the transitional period : minimum prices will be fixed, joint production and sales organisations established, agreements or long-term contracts concluded between member States and exporting countries, etc. It is even stipulated that during the transitional period each country will retain the right to object provisionally to any importation of agricultural products which might exert a downward pressure on the minimum prices fixed for its own output. A common agricultural policy is to be gradually developed during the transitional period and will relate in particular to a common organisation for markets. This is to take one of three forms, which are indicated in the Treaty, depending on the products concerned : a system of common rules to control competition ; compulsory co-ordination of the various national market organisations; or a European marketing board. It will

[1] Articles 8 and 14, paragraph 5.
[2] Article 8.
[3] Member States inform the Commission, within the first year from entry into force of the Treaty, what customs duties of a fiscal character are levied by them (article 17, paragraph 2).
[4] Article 17.
[5] Protocol relating to certain provisions of concern to France, I, 3.

be for the Commission to propose a policy in the first two years from entry into force of the Treaty.[1]

The six member States of the Community have agreed to share among themselves, to some extent, the cost of adjustment to the new conditions in the common market area, so that difficulties of adaptation may be more easily overcome by the countries most effected. A common fund, to be entitled the European Social Fund, will be set up to cover half of any public expenditure on occupational resettlement or on assistance to workers who are unemployed or on short time for reasons originating in the establishment of the common market.[2] The essential function of this Fund will be to promote " employment facilities and geographical and occupational mobility of workers within the Community " and so to " increase opportunities of employment " and " contribute to raising the standard of living ". With these objects the arrangements for retraining, placement, etc., will be supplemented by the granting of resettlement allowances, provided the unemployed workers have been obliged to change their domicile and have found productive employment elsewhere. The work of the Fund will thus be dominated by purely social considerations.[3] The European Investment Bank, on the other hand, will facilitate the financing of " projects for modernising or reconverting enterprises, or for creating new activities ". The Bank will also deal with development of economically underdeveloped areas and with projects of common interest to several member States. It is to have a capital of 1,000 million dollars, 25 per cent. of which must be paid up during the first two-and-a-half years of its existence. One-quarter of this first payment is to be made in gold or freely convertible currencies; the rest may be paid in the national currency. The remaining 75 per cent. is to be paid up at the Bank's demand, as need arises. The Bank will also raise loans on the capital market. If these are not sufficient it will be entitled to decide that member States of the Community shall grant it long-term loans at 4 per cent. interest. However, this step will only be open to it from the fourth year of operation, and the loans may not exceed 100 million dollars a year nor a total of 400 million dollars. Contributions to the Bank's initial capital are to be as follows : 300 million dollars each from France and the Federal Republic of Germany, 240 million from Italy, 86,500,000 from Belgium, 71,500,000 from the Netherlands and 2 million from Luxembourg. The Bank will be administered by the following : a Board of Governors, consisting of Ministers appointed by the member States, which will lay down general directives for its credit policy ; a Board of Directors, which will decide on the granting of credits ; and a Management Committee to be responsible for day-to-day operations. It is intended that the activities of the European Investment Bank shall be merely complementary and accessory to those of private banks.[4]

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[1] Articles 38 to 47.

[2] Articles 123 to 128.

[3] Parallel provisions may be found in the Treaty establishing the European Coal and Steel Community. Article 56 of this Treaty provides that the High Authority may grant unrepayable assistance to governments as a contribution to the payment of compensation to tide workers over until they can obtain new employment, the granting of resettlement allowances to workers and the financing of technical retraining for workers who are led to change their employment. As in the case of the European Social Fund, a grant of such assistance is conditional on payment by the State concerned of a special contribution at least equal to the amount of the assistance (unless an exception is authorised).

[4] Articles 129 and 130 ; and " Protocol on the Statutes of the European Investment Bank ".

Institutions and Budget

Apart from the Social Fund and the Bank, which are described above, the following institutions are to be established within the framework of the Community :

(1) The Council [1], composed of representatives of the governments of member States. Its main function will be to co-ordinate economic policies.

(2) The Commission [2], composed of nine persons appointed by agreement among the governments of member States, which will administer the Community and be the supra-national authority.

(3) The Assembly [3], consisting of 142 members elected for a five-year term by the parliaments of the participating countries [4], which will supervise the operation of the Community, vote the budget and have the right, by motion of censure (two-thirds majority), to bring about the resignation of the Commission.[5]

(4) The Court of Justice [6], composed of seven judges, which will be responsible, *inter alia,* for interpreting the Treaty.

(5) The Economic and Social Committee [7] and the Monetary Committee [8], both of an advisory character. The former will have specialised sections, particularly for agriculture and transport.

Initially the budget of the Community will be met from contributions by the member States, in the following proportions : France, the Federal Republic of Germany and Italy, 28 per cent. each ; Belgium and the Netherlands, 7.9 per cent. each ; Luxembourg, 0.2 per cent. It is intended that these contributions shall be subsequently replaced by the Community's own receipts from customs duties on imports from non-member countries.[9]

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[1] Articles 145 to 154.

[2] Articles 155 to 163.

[3] Articles 137 to 144.

[4] Belgium 14 seats, France 36, the Federal Republic of Germany 36, Italy 36, Luxembourg 6, Netherlands 14.

[5] This Assembly (therefore sometimes called the " Common Assembly ") will also have these powers and functions as regards Euratom. It will no doubt be combined with the corresponding Assembly of the European Coal and Steel Community.

[6] Articles 164 to 188.

[7] Articles 193 to 198.

[8] Article 105, paragraph 2.

[9] Articles 199 to 209.