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EUROPEAN COAL AND STEEL COMMUNITY

Report of the Working Party

I. Introduction

1. In accordance with its terms of reference the Working Party has examined the Fifth Annual Report of the Member States of the European Coal and Steel Community. The examination was conducted on the basis of information supplied by the Member States in their Report (L/686) and their supplementary statement (L/686/Add.1), of data contained in the note by the Executive Secretary (L/715), as well as of the additional information given by the representatives of the Member States and the High Authority in the course of the discussion.

2. The Working Party submits to the CONTRACTING PARTIES the results of its examination; Part II contains comments relating to the measures taken by the Member States with respect to the Waiver embodied in the Decision of 10 November 1952; Part III contains comments pertaining to other aspects of the commercial policy of the Community in so far as they affect the interests of third countries; Part IV contains observations of an administrative character, and Part V contains the conclusions of the Working Party.

II. Measures taken pursuant to the Decision of 10 November 1952

3. The Working Party noted that the Italian tariffs on coke and steel applicable to imports from other Member States have been further lowered as provided for in paragraph 1 of the Waiver. As regards coke, the tariff in the fourth year of the transitional period was reduced to 8.25 per cent, and further to 4.50 per cent for the fifth or last year of the transitional period, which started in February 1957. For ordinary steels, the rates applicable as from 1 May 1957 correspond to the Annecy rates reduced by 70 per cent. Duties for special steel were generally reduced by the same proportion as those applicable for ordinary steels as from the same date, in so far as those duties had not already undergone a larger reduction.

4. In accordance with paragraph 4 of the Waiver the Benelux countries continued to maintain tariff quotas for certain iron and steel products. It was noted that while generally the quotas remained unchanged as compared with 1956, there were a few instances in which adjustments were made either upwards or downwards in order to meet the prospective changes in the requirements of Benelux consumers.

5. The Member States continued to have recourse to the provisions of paragraph 6 of the Waiver in order to maintain a temporary restriction on exports of scrap. The Working Party noted that during the period under review the shortage of that essential material in the Community had remained critical in the sense of Article XI of the General Agreement.
6. The Working Party noted that no action had been taken under paragraphs 2, 3 and 5 of the Waiver during the period covered by the Report.
7. The Working Party took note of the measures applied by the Member States under the Decision and came to the result that actions taken so far were consistent with the terms of the Waiver.

III. Other Measures taken by the Member States and the Community in the field of Commercial Policy

8. The Working Party also had an opportunity to discuss other aspects of the commercial policy of the Community during the period under review, and the extent to which the interests of third countries were taken into account in the carrying out of that policy.
9. As regards export restrictions on scrap, the Working Party was informed by the observer of the High Authority that the recent expansion in steel production in the Community, which was not accompanied by a similar rise in the production of pig iron, had led to a parallel increase in the internal scrap requirements of the Community, which had to be met to a large extent by larger imports from third countries. In reply to a question by the representative of Sweden as to when the scrap situation in the Community could be expected to become such as to allow an increase in exports, the observer of the High Authority was not in a position to give any firm assurances, but stated that through various measures, such as larger investments in pig iron production which would lead to a continuing reduction in the ratio of scrap to pig iron used in steel production, it was hoped that the supply situation in the Community would improve from now on and become easier a few years hence. He also stressed the structural character of the present difficulties with regard to the scrap supply in the Community, and stated that the present low level of scrap exports should not be compared with the much larger exports in the first post-war years, when the market situation was abnormal. The Working Party took note of these explanations which seemed to warrant the expectation that the Community in the next few years would be in a position to relax the restrictions, which had been applied for a number of years on scrap exports to third countries, to the extent that it is successful in solving the structural problems involved. Reference was also made to the unusually high level of Community scrap imports from the United States in recent years and the desirability of continuing efforts to reduce reliance on imported scrap.

10. As regards the supply of coal, coke and steel to customers in third countries, the Working Party noted that no difficulties were due to insufficient availabilities for export from the Community, and that importing countries were affected mainly by price movements.

11. Prices charged by Community exporters during the period under review were the subject of a detailed discussion in the Working Party, which was based on data furnished by the Community, the Governments of Czechoslovakia, Denmark and India, as well as on the note prepared by the Executive Secretary.

12. As regards export prices for coal, the representative of Denmark pointed to the fact that some divergencies between export prices and internal prices in the Community had appeared during the period under review for the small quantities purchased by Denmark, but he accepted the explanation given by the observer of the High Authority that the movements in the two sets of prices could not be exactly parallel and that some difference may therefore exist at any given time.

13. Concerning export prices for coke, the representative of Denmark stated that the situation was essentially the same as a year ago; notwithstanding the fact that the level of export prices had not risen in the past year, the prices paid by Danish importers remained in 1956/57 substantially higher than the internal Common Market prices. He also repeated the observation made last year that Danish importers had to pay a share of the cost of American coking coal imported into the Community, which was out of proportion with the relatively small quantities of coke imported into Denmark from the Community. He admitted that some improvement had occurred in the last few months for certain supplies, and as regards prices for coke imported from Belgium he was glad to note that there was no marked difference between internal and export prices. However, in the case of Germany, the main supplier, the price difference still remained substantial and the general situation could not yet be said to have righted itself. The representative of Sweden associated himself with these remarks.

14. The observer of the High Authority pointed out that, during the year under review, the Community has been obliged again to increase imports of coking fines the price of which remains substantially higher than of coking coal produced in the Community. This circumstance could have led to an increase in the export price of coke. However, this price has not risen since last year, whereas the internal prices have recently gone up. As a result, there is now only a very small margin between the list prices for sales within the Community of coke produced from Community coal and the basic price for exported coke made from the same kind of coal. On the other hand, if account is taken of the charges asked from Community consumers of coke for custom processing of American coking fines, the global price for coke imported by Danish purchasers does not, in the opinion of the observer of the High Authority, represent an excessive amount in relation to what Community consumers as a whole have to bear.

15. The Working Party noted that some improvement had taken place during the year and that the difference between export and internal prices for coke has been reduced in most cases; it took note of the assurances given again this year by the observer of the High Authority that it would see to it that Community exporters would not take advantage of the strained supply situation of coking coal on the world market by pushing prices quoted to traditional customers beyond equitable limits.

16. The Working Party then addressed itself to questions relating to steel. It noted that during the year under review the Community exporters had resorted to export quotas. The observer of the High Authority explained that this measure was introduced recently and applied only to one steel product, i.e. reinforcing bars, the demand for which in third countries fell much more than for other steel products during the year, and also that in the last months such bars were sold abroad at prices lower than the minimum export prices and now even below the lowest internal prices; the measure was of a temporary character and aimed solely at adjusting supply to an abnormal falling off of the demand in export markets. Moreover, the observer of the High Authority stressed that the measure was taken under the sole responsibility of the exporters of the Community. The Working Party noted with satisfaction the statement by the observer of the High Authority that basic minimum export prices were the same for all destinations.

17. However, the representatives of Czechoslovakia and India informed the Working Party that in their opinion higher prices had been charged for steel imported by their countries from the Community than was the case with respect to buyers in some other countries. The observer of the High Authority, while stressing that, in the fixing of basic minimum export prices there was no discrimination as between various countries of destination, stated that any differences in export prices that might exist were due to purely commercial factors. In this connexion he recalled the explanation he gave last year that if sales were made directly by Community exporters to the user abroad, the Brussels minimum export prices were observed. As regards the particular question concerning extras charged over and above the basic minimum prices, he indicated that in no case were such extras included in the prices fixed by the exporters' convention. The basic minimum export price was the only price element fixed by the convention of Community exporters and they were free to charge extras according to dimensions, qualities, delivery dates and other factors; in general these extras were substantially lower than those applied within the Community.

18. The representative of Czechoslovakia stated his concern that his country when importing steel from the Community, had to pay prices fixed by the Brussels Convention at a substantially higher level than prices Czechoslovak exporters were able to obtain when exporting steel of comparable quality from Czechoslovakia to the Community. He felt that this was contrary to the stated aim of the Community to promote trade with third countries and not compatible with an equitable treatment of third countries especially when account was taken of the fact that the export prices fixed by the

Brussels Convention were generally above the level of internal prices. He thought, however, that this problem could more suitably be taken up bilaterally and it was agreed that the matter would be discussed between him and the observer of the High Authority.

19. The Working Party heard a statement by the representative of Denmark regarding steel purchases by Danish importers from the Community. He recalled that his Government had accepted the Waiver on the understanding that prices charged by Community exporters would remain within equitable limits, an essential requirement for the steel transforming industry in his country which depended upon equal access to raw material. In his opinion the only relevant criterion for judging whether export prices in the Community had remained within equitable limits was a comparison between prices paid in effect by importers and the prices obtaining in the Common Market, and it was in this way his Government had understood the term equitable limits when considering the Waiver in 1952. He drew attention to the difficulties encountered by the Danish steel transforming industries which, in the first four months of 1957 had to pay, on the average, substantially higher prices for steel imported from France and Germany than users in the Community. This circumstance had adversely affected the competitive power of Danish steel transforming industries in export markets and was an obstacle to his country's policy towards an extension of import liberalization. He admitted that the discrepancy had somewhat narrowed towards the end of the period under review, but he wanted to stress that this was true only if comparison was made with the first months of 1957, when the differences between the two sets of prices were larger than ever, and that the adjustment, especially as far as German prices are concerned, amounted essentially to a return to the situation which existed a year earlier. No real improvement could therefore be said to have occurred over the period. The Danish representative renewed the expression of concern felt by his Government already last year. He requested the High Authority to give a firm assurance that every effort would be made to prevent exporters from taking unfair advantage of the situation, the more so as the Community's position in the world export market for steel was so important that it could be considered as a price leader with respect to its main steel export items. He expressed his disappointment that the High Authority had not seen its way to intervene more actively to counteract a development of export prices such as took place in the beginning of 1957 and also the concern felt by his country that exporters could have resorted to export quotas without any control being exercised by the Authorities of the Community. If such a practice were to be adopted by the exporters in periods of falling prices, it would nullify the relative price advantages which foreign consumers would derive from the market situation and which were considered by the High Authority as a compensation for the higher prices paid by foreign purchasers as compared with Community purchasers when the demand was brisk. In those circumstances the arguments advanced by the observer of the High Authority to explain the divergent trends of the two sets of prices would lose their force.

20. The observer of the High Authority did not feel it necessary to reproduce in this report the arguments expressed in the Working Party which had already been recorded in last year's report in respect of the criteria to be used for price comparisons and of the position of Community exporters on the world market. The observer of the High Authority recalled that a year ago the Community minimum export prices, with a few exceptions, were lower than the export prices of the United Kingdom and the United States. He stressed that this year the Community minimum export prices compared more favourably with the export prices of other supplying countries and that even the highest quotations for Community products were lower than the quotations of the other suppliers, with the exception of flat products from the United States. During the period under review, the minimum export prices in general rose less than the internal basis prices. It appeared that at the end of August 1957 the minimum export prices were in several cases (bars, wire rods, plates, cold rolled sheets and strip) almost equal to or even lower than the internal prices of Belgium, the Netherlands and Luxemburg which are still the main suppliers of Denmark. In the case of the other products (sections, broad-flange beams and hot-rolled sheets) export prices were in these countries still higher, but the margin had narrowed during the period under review and had become very small at the end of that period. The observer of the High Authority further recalled that the internal prices in Denmark for merchant bars and plates, the only products for which he had data available, had increased over the whole period since 1 January 1955 in a higher proportion than the minimum export prices, and that the internal prices are now somewhat higher than the minimum export prices. The price data supplied by the Danish authorities show furthermore that the Danish importers had in most instances paid prices which were in fact identical with the minimum export prices. He pointed out that on the whole the fluctuations of export prices had been moderate in the boom period of the last four years as a result of the stabilizing effect of the Common Market on internal prices and of the continuous influence exercised by the High Authority. In this connexion the fixing of minimum export prices had had a rather attenuating effect on the movement of export prices during the period. For all these reasons, he stated that in the opinion of the High Authority, which had continued to follow carefully and continuously the movements of export prices, the prices charged for export by Community producers had been kept during the period under review within equitable limits. He gave the assurance that the High Authority would continue in the future to have prices under close observation. The Danish representative remarked that in his view the Danish internal prices were without relevance to the Waiver.

21. The Working Party also considered the effects which the Brussels Convention had on the level of export prices. Members of the Working Party pointed out that the Convention deprived third countries of the benefits which they would enjoy from the common market for coal and steel if price competition existed, as they might reasonably have expected when the Community was established, in exports from the Community. There was a serious risk that the uniform export price would be fixed in relation to the highest prices quoted in the Community. They also considered that the establishment of export quotas by agreement among the Community steel producers might intensify for

third countries the disadvantageous effects of price agreements among the producers. Because export prices are not competitively determined, any presumption that prices are equitable might not be valid and therefore special vigilance by the High Authority would be in order with regard to the provisions of the Waiver dealing with the equitability of export prices. The observer of the High Authority explained again that the High Authority could not intervene against the system of fixing minimum export prices as such, but its powers allowed it to act if the operation of the system would lead to excesses in prices, or would produce harmful effects in the sense of Article 65 of the Treaty. He pointed out also that the High Authority did not limit its task to the minimum export prices only but that it does also follow prices actually charged by Community exporters in third markets and that the High Authority would not hesitate to intervene, as exemplified by the appeal to producers in the beginning of 1956 to exercise restraint as regards increases in export prices. On the other hand, he stated that the operation of the Brussels Convention so far had not been such as to call for any action by the High Authority under the Article mentioned.

22. The Working Party noted that there had been rather wide movements in the export prices of the Community suppliers during the period under review but the situation at the end of the period was somewhat different from that considered last year. If the situation in August 1957 is compared with that existing at the end of October 1956 export prices in general had risen less than internal prices and some alignment of these two sets of prices had no doubt occurred in a number of cases and prices for all forms of transactions have come very close to the minimum export prices. On the other hand, export prices, even when they were close to the upper limit of the range of internal prices, remained often substantially above the lower limit of those prices, and the introduction of export quotas, even on a temporary basis, would prevent any further narrowing down of such disparity. It noted the assurance of the observer of the High Authority that all export prices had been carefully followed, and that the High Authority would continue to have such prices under close observation. The Working Party expressed the hope that the High Authority would take note of the particular difficulties which any substantial discrepancy between export and internal prices might have on the interests of foreign users which compete with producers in the Community and would not hesitate to intervene actively against any tendency on the part of Community exporters to apply a price policy which would be inconsistent with the general principles on which the Community was founded and which were referred to in the Waiver granted by the CONTRACTING PARTIES.

23. The Working Party took note of the measures taken during the year by the Member States towards the lowering of duties applied on imports of various steel qualities from third countries either by means of temporary suspensions or of reductions of duties, in some instances within the limit of a tariff quota.

24. As regards the harmonization of duties, the Working Party took note of the assurance given by the representative of the Member States that harmonized external duties will be applied as from 10 February 1958. Members of the Working Party expressed their disappointment at the fact that the Report of the Member States did not contain any indication as to the rate to be applied. The representative of the Member States, while stressing that the Waiver did not contain any obligation to communicate the harmonized tariff before it entered into force and that, moreover, the details had not yet all been worked out, gave some information of a general nature about the progress made in the preparation for harmonization of the tariffs of the six Members. The basis for harmonization would in principle be the Benelux duties increased by two points. However, the rate would not be exactly the same in the three other Member States, as there was a need for taking account of "geographical protection". The Working Party was also informed that France and Italy had requested, in accordance with the provisions of Section 15, paragraph 6 of the Convention, an exception from the harmonized tariff for two years but this request affected only a small number of steel products.

25. Several queries were raised concerning the compatibility of "geographical protection" with the principle of harmonization. The representative of the Member States stated that harmonization should be taken not to mean the standardization but the bringing together of various duties to a level which should be lower than the tariffs applicable before and that the Waiver did not imply that all the countries concerned should apply exactly the same duties. The principle of harmonization of duties enables the adoption of different tariffs according to country, to the extent necessary to prevent diversion of trade to the detriment of countries with higher duties by way of other Community countries with lower duties. The duties which each country may establish vary according to the differences in costs of transport for goods originating in third countries, as between direct imports on the one hand and indirect imports over the territory of another Community country on the other. The geographical protection which certain countries may enjoy is made up of the difference between the transport costs in the two cases mentioned. It was further stated that the new harmonized tariff will be lower not only than the duties in existing legal tariffs, but also than the duties at present applied, and that, although detailed calculations were not yet available, the general incidence of the harmonized tariff in each Member State other than Benelux will certainly be lower than before. The reason why full resort has been had to the provisions of the Convention regarding harmonization was the large difference that still remained between the Benelux duties and those of the other three countries.

26. The representatives of Austria and Sweden stated, that in their opinion, the result of the method of harmonization sketched out by the representative of the Member States did not appear to be consistent with the terms of the Decision of 10 November 1952. The Austrian representative stated that from his point of view, the final objective of the harmonization meant the application of a uniform tariff at a level not exceeding that of the Benelux tariff plus two points. In any case, it could not justify differences in rates which, according to reports which had appeared in the press, might amount of 70 per cent or more. In that connexion, reference should be made to earlier statements by spokesmen for the Community recognizing that the harmonization meant the establishment of a more or less uniform tariff, the final objective being the Benelux level plus two points. (See document L/307, paragraph 17.) Since the increase by two points in the

Benelux tariff was tied to the fulfilment of the undertaking to harmonize in accordance with the above-mentioned definition, the Austrian representative expressed the view that the conditions required for that increase would not obtain on 10 February 1958 and that any action in that direction would not be consistent with the terms of the Waiver of 10 November 1952. Finally, the Austrian representative considered that the system of geographical protection as envisaged had no legal justification either in the Treaty of the Member States or in the Waiver granted by the CONTRACTING PARTIES. The Swedish representative declared himself to be generally in agreement with the views expressed by the representative of Austria, and stated that the Decision was based on the assumption that the Member States would harmonize their customs duties upon a basis which should be lower than the duties then applicable. Moreover, the Benelux countries were authorized, under paragraph 4 of the Decision, to raise certain bound duties by not more than 2 per cent ad valorem "for the purpose specified in Section 15 paragraph 7 of the Convention on Transitional Provisions, and under the circumstances specified in that paragraph." It was of importance, not least with respect to the future external tariff of the European Economic Community, that any differences in steel duties should be successively reduced in order to obtain a uniform tariff as for the other items of the common external tariff. The representatives of Austria and Sweden suggested that, as soon as the proposed duties are available, the secretariat should compare them with the duties applicable in 1952 and submit the results of the comparison to the CONTRACTING PARTIES.

27. The representatives of the Community were unable to share the views expressed by the representative of Austria, which had been supported by the Swedish representative. In point of fact, their statements only contained arguments which were not justified either by Section 15 of the Convention on the Transitional Provisions or by the text of the Decision of 10 November 1952. As expressly indicated in Section 4 of the Decision of 10 November 1952, the question is whether the increase by two points authorized in paragraph 7 of Section 15 of the Convention, in order to facilitate the harmonization of customs duties, does in fact allow of such harmonization, and whether the conditions laid down in paragraph 7 of Section 15 are fulfilled. With regard to the first point, harmonization will be effective on 10 February 1958. Even if the Treaty does not expressly define the concept of harmonization, this is implicitly defined in Section 15 itself, the purpose of which is to establish provisional procedures for avoiding disturbances in the Common Market due to the very different tariff levels in the various countries of the Community when the Treaty is brought into force (the Benelux quotas under paragraphs 2 to 5 of Section 15, and the measures of unilateral protection under paragraph 6 of that Section). The harmonization of duties consists in bringing the tariffs closer together on the basis of the lowest tariff in the Community, increased by two points if necessary, to an extent which makes it possible to abolish the safeguard procedures constituting an obstacle to the steel trade which are provided in Section 15. In order to support their point of view, the representatives of the Community drew attention to the fact that this definition of harmonization was already contained in a report of the French Government on the Treaty establishing the European Coal and Steel Community, published in October 1951 - that is to say, before the ratification of the Treaty by the national parliaments. With regard to the second point, the conditions laid down in paragraph 7 of Section 15 will be fulfilled. The Benelux tariff quotas will be abolished on 10 February 1958, and one of the countries which are neighbours of Benelux will not have recourse to the provisions of paragraph 6 of Section 15. The representatives of the Community

considered that the legal arguments and the justifications stated above refuted the criticisms which the Austrian and Swedish delegations had made concerning the method of harmonization and they, therefore, affirmed that the Member States and the High Authority had fully respected the undertakings spelled out in the Decision of 10 November 1952. Finally, they stated that the reference made to the Treaty of Rome was not within the competence of the working party.

28. The Working Party recommended that the secretariat should undertake the comparison which was asked for by the representatives of Austria and Sweden, and confirmed that the increase in the level of bound duties was only authorized for the purposes specified in paragraph 4 of the Decision. It wishes to quote in this connexion an extract of the report of the 1952 Working Party¹:

"It was felt that this insertion was necessary to guarantee that the authorized increase in the Benelux duties on tariff items bound under the General Agreement would only take place if the Member States gave effect to their intention of harmonizing their customs duties and of bringing them down to a level which would be lower than the general level of their present duties on coal and steel products."

29. The representative of Austria also pointed out that the proposed method of harmonization might impair the value of certain concessions which were granted by the Six in the course of the 1956 Tariff Negotiations. The Working Party was of the opinion that, if the Austrian Government felt that the introduction of the harmonized tariff would have that effect, it would be free to resort to the procedures of Article XXIII of the General Agreement. This right was clearly recognized by the CONTRACTING PARTIES when they approved the Waiver in 1952².

Finally, the representative of Austria indicated that, in view of the importance of this matter, the Six should enter into consultation with the CONTRACTING PARTIES or any interested party before the new rates entered into force. The Swedish delegation also was of the opinion that consultations would be useful. The Working Party drew attention to the new text of Article XXII of the General Agreement which was broad enough to enable the Austrian Government to request that such consultations be held, either between the Six and Austria or, if such consultations did not bring about satisfactory results, between the Six and the CONTRACTING PARTIES. Moreover, the Working Party agreed to recommend, as is stated in paragraph 31 below, that the next report of the Community should be considered by the Intersessional Committee as soon as practicable after it has been received by the Executive Secretary.

IV. Other questions

30. The Working Party noted the arrangements made for the publication in the International Trade News Bulletin of official information on changes made in tariffs and other regulations. It recommends that this publication should be continued.

¹ See Basic Instruments and Selected Documents, First Supplement, page 88.

² See Report of the Working Party, paragraph 10, Basic Instruments and Selected Documents, First Supplement, page 88.

31 The Working Party recommends that the report of the Member States on the last period covered by the Waiver should be communicated to the CONTRACTING PARTIES as soon as practicable after the end of the transitional period and in any case before the end of March 1958. In view of the importance for certain contracting parties of the harmonization of the tariffs of the Member States, the Working Party recommends that instead of referring the examination of the report to the Thirteenth Session, the Intersessional Committee should be empowered to examine it at its first meeting after the report is circulated.

V. Conclusions

32. The examination of the Fifth Report has shown that the Member States and the High Authority have taken the necessary steps to complete the establishment of the Common Market on 10 February 1958, as contemplated when the Decision of 10 November 1952 was approved by the CONTRACTING PARTIES; it should be noted, however, that according to some Members of the Working Party the proposals for the harmonization of the customs tariffs of the Member States do not correspond to what their Governments had understood to be contemplated when the Waiver was granted. The Working Party was of the opinion that this question would have to be discussed when the report on the last period covered by the Waiver is transmitted and examined next year.

As in previous years, the Working Party considered the supply situation of third countries with respect to Community products as well as the prices of these products. While the Working Party was able to conclude that the difficulties which in earlier years had occurred in the supply of coal and coke from the Community had been entirely overcome, it was not in a position to reach unanimous conclusions as regards prices because of the divergent viewpoints concerning the criteria to be applied in comparing the various price series. Note was taken, however, of the fact that the price situation had improved substantially at the end of the period covered by the report. The exchange of views has enabled the various participants to have a clear idea of the problems involved and to dispel a number of misunderstandings. The Working Party feels, therefore, that the discussions were particularly useful and it wishes to place on record its appreciation of the frankness with which the representative of the Member States and the observer of the High Authority answered the various points raised by Members of the Working Party, and of their readiness to supply comprehensive data on problems discussed.