

'Tariff negotiations with the United States set to become mired in the obscure "dispute over disparities"' from Le Monde (1 December 1963)

Caption: On 1 December 1963, the French daily newspaper Le Monde considers the complex nature of the forthcoming tariff discussions between the European Economic Community and the United States in the context of the 'Kennedy Round' Conference, due to begin on 4 May 1964 at the GATT's Geneva headquarters.

Source: Le Monde. dir. de publ. BEUVE-MÉRY, Hubert. 01.-02.12.1963, n° 5 871; 21e année. Paris: Le Monde. "Les négociations tarifaires avec les Etats-Unis vont s'enfoncer dans la ténébreuse querelle des disparités", auteur:Fabra, Paul , p. 7; 10.

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From Brussels to Geneva ... via Byzantium

Tariff negotiations with the United States set to become mired in the obscure 'dispute over disparities'

On Tuesday, in Brussels, the EEC Council of Ministers will discuss a report from the Hallstein Commission concerning preparations for the negotiations which we would still like to call the 'Kennedy Round'. In accordance with the 'calendar' which they set for themselves on 9 May last, the Six must, before the end of this year, reach a consensus on how to approach the conference which will open on 4 May next year at the GATT headquarters in Geneva. Will they be able to achieve this in such a short time?

What is at issue here is nothing less than the definition of a form of European Trade Expansion Act, which in turn will have to come up with methods to try to resolve the two principal problems which have been bedevilling the experts, as much those on the shores of Lake Geneva as those in the Common Market's 'capital', for many months: firstly, the already famous tariff disparities and, secondly, agricultural products. The Commission has already tackled the second problem in order to try to direct the negotiations along new lines with the 'second Mansholt Plan', which will no doubt be reviewed in greater depth from 16 December onwards, the date on which the Council of Ministers should also resolve itself to discuss the first Mansholt Plan (concerning an immediate alignment of cereals prices).

The report, which will be presented by the EEC Commission on 3 December, deals mainly with the question of disparities which France, as we know, considers a key issue.

Very varied tariffs

The French Government is convinced that a review which is calm and not influenced by political considerations should persuade its Common Market partners of the need to finding a solution to this problem of disparities. Let us remind ourselves briefly of what it concerns: the forthcoming negotiation in Geneva should naturally lead to a uniform lowering of the tariffs of the various participants. This is in keeping with the same rules which were adopted by all the GATT countries last May: these countries actually agreed to benefit from the new powers granted by the American Congress to the United States President to abandon the old 'product-by-product' method of negotiating and adopt the one provided for in the Trade Expansion Act: the reduction of all duties or of an entire category of duties in accordance with the same percentage (known as a 'linear' reduction).

That method, if applied willy-nilly, would result in reducing the Six's Common External Tariff (CET) to a very low level (abolishing practically all protectionist measures) for a great many industries while the American tariff and, to a lesser extent, the British one, would remain quite high for broad sectors of their economy. The tariffs in place are in fact very varied. If, for example, the European duty on a product X is 12 % and the American duty 40 %, a linear reduction of 50 % would leave a European duty of just 6 % – many experts believe that, below 10 %, a customs duty stops being protectionist, at least for highly-priced manufactured goods, and an American duty of 20 % is still significant. The original disparity will not have been corrected at all; it will in fact have been aggravated, if not arithmetically, then at least in economic terms, for the reasons that we have given.

After five days of in-depth discussions, which on several occasions seemed to be on the verge of bringing about a breakdown in negotiations, the representatives of the Common Market (under the leadership of France and the Hallstein Commission) had to admit in Geneva last May that, in cases where there were significant disparities in tariff levels, it would be judicious to fix special rules for reductions, rules whose application should be automatic and general (so as to avoid returning to product-by-product negotiations).

For the past six months, in Geneva as well as in Brussels, a definition has been sought in vain of the criteria which would allow the cases in which there were significant disparities to be determined. The difficulties seem to be just as huge when it comes to drawing up 'special rules' for dismantling tariffs.

The Commission report reflects this difficulty in so far as it proposes that the Council of Ministers make its choice between the two following formulas:

First formula: the ‘double discrepancy’ formula

It is certainly worth while, if we consider the stumbling blocks which the experts will have to overcome during the next few months, to remember the long and winding thought processes used by the European specialists to arrive at a formula which they are not yet sure will satisfy them! Their first idea was to consider that there would be a disparity each time that the discrepancy between European tariff and the ‘foreign’ tariff was at least equal to ten percentage points. We would be wrong – let us note it in passing – to believe that the handling of such a simple criterion would be easy: existing tariffs do not use the same nomenclature; the American tariff, for example, contains a lot more ‘posts’ than the Common External Tariff (CET). Once the links had been established, the following result was arrived at: using the United States nomenclature, two thousand cases of disparities were recorded of which one thousand seven hundred took the form of American duty being higher than ‘European’ duty, with three hundred the other way around.

This figure seemed unacceptable for Washington right from the outset. Accordingly, the addition of another criterion was envisaged: there would be a disparity each time the discrepancy amounted to ten points, on condition that the higher of the two duties in question was at least 30 % (ad valorem.) At a stroke, the number of disparities was suddenly reduced to twelve hundred, of which only twenty took the form of the ‘European tariff being higher than American tariff’. This slightly more refined method had one particular drawback in that it ignored a number of cases of glaring disparities, such as the now famous one of cars (for which the disparity is in the United States’ ‘favour’, as their duty is only 6 %, while the CET duty is 19 %).

In order to avoid that drawback, the Commission devised a new formula which included the following two criteria: (a) the minimum gap must be 10 points; (b) the higher duty must be at least equal to twice the lower duty.

This formula might seem quite attractive, but the problem still remained of defining the special reduction rules which would apply to disparities once they had been determined, another Chinese puzzle. The problem would no doubt be quite simply resolved if the negotiations were to take place between two partners, but it is strongly complicated by the fact that it will have to take into account disparities between a large number of tariffs (at least four ‘big’ tariffs will be represented at GATT: the CET, the American tariff, the British tariff and the Japanese tariff.)

This is why the experts tend to think that the other formula – known as the Japanese formula (because it was initially proposed by Japanese officials several months ago) – proposed by the Commission to the Council of the Six might ultimately appear more satisfactory.

Second formula: the ‘Japanese’ formula

This formula consists in resolving the problem by abolishing it. Special treatment for disparities would no longer be sought. On the other hand, the reduction rates would be differentiated in accordance with duty levels, the highest duties having to be reduced proportionally more than the lowest duties. We might, for example, agree that all the duties between 0 and 10 % would be reduced by one-fifth, the duties between 10 and 20 % by one-quarter, the duties between 20 and 30 % by one-third; the duties between 30 and 40 % by one-half, etc. The Commission has not yet illustrated its proposal with figures, so the percentages that we have quoted are purely imaginary.

It is immediately obvious that this formula would be relatively favourable for the EEC, whose tariffs are generally modest (almost never higher than 25 %), and would demand greater sacrifices on the part of countries, such as the United States and Great Britain, whose customs duties protecting certain sectors reach levels which are very clearly higher. Perhaps a balance might be restored between the concessions sought from one another by allowing Great Britain and the United States to withdraw more products from the

Round than the EEC (this involves the problem – hardly raised yet – of ‘exceptions’).

Although the formula known as ‘Japanese’ (which Japan, a country with a high tariff, does not itself endorse) may well cause objections to be raised in Washington, the same does not, apparently, apply to the ‘British’ formula, which Her Majesty’s experts officially presented at Geneva: whatever criterion is applied, the United States will only be held as ‘responsible’ for the disparities pertaining to products for which it is the EEC’s ‘principal supplier’. It is known that this notion of ‘principal supplier’ is one of the key concepts of the GATT, a club which possesses its own vocabulary and trains of thought.

As for the Europeans, how will they end up by making their choice between the various formulas, the comparison between the respective advantages of each quickly defying the reasoning powers of the ‘man in the street’? In Paris, as in Community circles, it is felt that the Common Market’s policy on this subject should constantly be guided by the following objective: the Kennedy Round must be profitably used not only for lowering the level of customs barriers (so sought after by the authors of the Trade Expansion Act) but also for bringing the tariffs of the world’s large industrial countries into line with each other.

What the French want: repeal of the American Selling Price Act

The lack of current harmonisation aggravates distortions in the conditions of competition from one side of the Atlantic to the other. Let us look at some examples. For organic chemical products, CET duties are to the order of 15 to 20 % for nearly all products, while American duties are to the order of 50 to 70 % for four hundred tariff positions.

To those duties must be added the effects of the *American Selling Price Act*, which finds its principal application in the chemicals sector: according to that Act, the United States customs must levy the entry duty not on the sale price of the imported product but on the price of the same product or on a similar ‘made in the USA’ product. That leads to the imposition of a supertax on goods coming from Europe of between 50 and 150 %. One of the indirect results of the *American Selling Price Act* is to allow American industrialists to practise dumping with impunity in the countries of the Common Market, as their own market is sheltered from any retaliatory measures taken by their competitors.

This disproportion between the levels of protection on the two sides of the Atlantic is all the more a cause for concern in that the American companies are financially much stronger than their European counterparts, a fact which distorts the conditions of competition and might, at a pinch, justify a disparity in customs duty ... in the opposite direction (which we are not asking for). Accordingly, France (whose attitude on this point is well understood by her partners) has decided to demand as a condition for the lowering of tariffs on all products the repeal of the *American Selling Price Act*, and of course a ‘lopping’ of the high duties imposed by the United States. To support their arguments, our negotiators will be able to quote some significant figures: exports of organic chemical products from the USA to the EEC amounted to 142 million dollars in 1962, while exports from the EEC to the United States amounted to no more than 21 million dollars. In the case of plastics, American sales to the EEC amounted to 62 million dollars, while European sales to the United States amounted to 4 million.

Why is harmonisation necessary?

For several other sectors, tariff disparities are as large, which also contributes to a trade imbalance. It is particularly true in the case of the dyestuffs industry (CET around 15 % with American tariffs ranging between 43 % and 85 %): synthetic textiles (CET around 15 % and American duty nearly always more than 50 %). The situation is similar in the engineering industry for the precision and laboratory instruments branch: the CET is to the order of 15 % to 20 %; the American duty is between 50 % and 80 % (with a ‘pinnacle’ of up to 208 %). In this last area, the disproportion between American industry (which benefits from the enormous military research budget of the United States) and European industry is even more glaring. If we add to that the destabilising factor of customs duties, Europe has every chance of definitively depending on America for a whole series of advanced materials (particularly in because of automation).

The British wool industry, also much stronger than the Continent's, benefits largely from a tariff disparity that is to its advantage: Community duties are just 10 % to 15 %, the United Kingdom's being generally thirty-three and one-third per cent.

In all these sectors, our Common Market partners should, ultimately, feel as threatened as we do. Why are the Germans balking at espousing the French dispute about disparities? No doubt because the German Government is particularly sensitive to the free-trade arguments of the capital goods industry which, for its part, has nothing to fear from foreign competition.

Let us conclude with two general comments which appear to be contradictory:

(1) If the Kennedy Round should be based on the Trade Expansion Act as it stands (a 50 % linear reduction in all duties), the result would be as follows: more than half of the American duties would remain higher than 10 %, while those of the Common External Tariff would be only 6 %. The EEC would be deprived of every means of putting pressure on Washington to harmonise its tariff;

(2) The technical difficulties surrounding the actual Round should not make us lose sight of the general objective to which President Kennedy has given his name: to further tighten economic links between the old and the new continent and to avoid at all costs a situation when the difficult formation of European unity would be rewarded by a schism in the Western world. If France were to let it be clearly known that, in putting forward its conditions, it is simply trying to establish a future Atlantic 'partnership' on a fair and sustainable basis, the most obscure issues would immediately become much clearer.