

Agreement between the European Economic Community and Austria (Brussels, 22 July 1972)

Caption: On 22 July 1972, in Brussels, the European Economic Community (EEC) and Austria sign an agreement which concerns, in particular, the development of their economic relations on the basis of the gradual removal of obstacles to trade.

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Agreement between the European Economic Community and the Republic of Austria (Brussels, 22 July 1972)

The European Economic Community, of the one part, and the Republic of Austria, of the other part,

DESIRING to consolidate and to extend, upon the enlargement of the European Economic Community, the economic relations existing between the Community and Austria and to ensure, with due regard for fair conditions of competition, the harmonious development of their commerce,

RESOLVED to this end to eliminate progressively the obstacles to substantially all their trade, in accordance with the provisions of the General Agreement on Tariffs and Trade concerning the establishment of free trade areas,

DECLARING their readiness to examine, in the light of any relevant factor, and in particular of developments in the Community, the possibility of developing and deepening their relations where it would appear to be useful in the interests of their economies to extend them to fields not covered by this Agreement,

HAVE DECIDED, in pursuit of these objectives and considering that no provision of this Agreement may be interpreted as exempting the Contracting Parties from the obligations which are incumbent upon them under other international agreements,

TO CONCLUDE THIS AGREEMENT:

Article 1

The aim of this Agreement is: (a) to promote through the expansion of reciprocal trade the harmonious development of economic relations between the European Economic Community and the Republic of Austria and thus to foster in the Community and in Austria the advance of economic activity, the improvement of living and employment conditions, and increased productivity and financial stability,

(b) to provide fair conditions of competition for trade between the Contracting Parties,

(c) to contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade.

Article 2

1. The Agreement shall apply to products originating in the Community or Austria: (i) which fall within Chapters 25 to 99 of the Brussels Nomenclature, excluding the products listed in the Annex;

(ii) which are specified in Protocol No 2, with due regard to the arrangements provided for in that Protocol.

2. The Agreement shall replace the Interim Agreement between the European Economic Community and the Republic of Austria signed this same day.

Article 3

1. No new customs duty on imports shall be introduced in trade between the Community and Austria.

2. Without prejudice to the tariff reductions made under Article 2 (2) of the Interim Agreement between the European Economic Community and the Republic of Austria signed this same day, customs duties on imports shall be progressively abolished in accordance with the following timetable:

(a) on 1 January 1974 each duty shall be reduced to 60% of the basic duty;

(b) three further reductions of 20% each shall be made on:

1 January 1975,
1 January 1976,
1 July 1977.

As regards trade between Ireland and Austria, an initial reduction shall be made on 1 April 1973 to reduce each customs duty on imports to 80 % of the basic duty.

Article 4

1. The provisions concerning the progressive abolition of customs duties on imports shall also apply to customs duties of a fiscal nature.

The Contracting Parties may replace a customs duty of a fiscal nature or the fiscal element of a customs duty by an internal tax.

2. Denmark, Ireland, Norway and the United Kingdom may retain until 1 January 1976 a customs duty of a fiscal nature or the fiscal element of a customs duty in the event of implementation of Article 38 of the "Act concerning the Conditions of Accession and the Adjustments to the Treaties" drawn up and adopted within the Conference between the European Communities and the Kingdom of Denmark, Ireland, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland.

Article 5

1. The basic duty to which the successive reductions provided for in Article 3 and in Protocol No 1 are to be applied shall, for each product, be the duty actually applied on 1 January 1972.

2. If, after 1 January 1972, any tariff reductions resulting from the tariff agreements concluded as a result of the Trade Conference held in Geneva from 1964 to 1967 become applicable, such reduced duties shall replace the basic duties referred to in paragraph 1.

3. The reduced duties calculated in accordance with Article 3 and Protocol No 1 shall be applied rounded to the first decimal place.

Subject to the application by the Community of Article 39 (5) of the "Act concerning the Conditions of Accession and the Adjustments to the Treaties" drawn up and adopted within the Conference between the European Communities and the Kingdom of Denmark, Ireland, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland, as regards the specific duties or the specific part of the mixed duties in the Irish Customs Tariff, Article 3 and Protocol No 1 shall be applied, with rounding to the fourth decimal place.

Article 6

1. No new charge having an effect equivalent to a customs duty on imports shall be introduced in trade between the Community and Austria.

2. Charges having an effect equivalent to customs duties on imports introduced on or after 1 January 1972 in trade between the Community and Austria shall be abolished upon the entry into force of the Agreement.

Any charge having an effect equivalent to a customs duty on imports, the rate of which on 31 December 1972 is higher than that actually applied on 1 January 1972, shall be reduced to the latter rate upon the entry into force of the Agreement.

3. Without prejudice to the reductions made under Article 2 (2) of the Interim Agreement between the European Economic Community and the Republic of Austria signed this same day, charges having an effect equivalent to customs duties on imports shall be progressively abolished in accordance with the following timetable:

(a) by 1 January 1974 at the latest each charge shall be reduced to 60% of the rate applied on 1 January

1972;

(b) three further reductions of 20% each shall be made on:

1 January 1975,
1 January 1976,
1 July 1977.

As regards trade between Ireland and Austria, an initial reduction shall be made on 1 April 1973 to reduce each charge having an effect equivalent to a customs duty on imports to 80 % of the basic duty.

Article 7

No customs duty on exports or charge having equivalent effect shall be introduced in trade between the Community and Austria.

Customs duties on exports and charges having equivalent effect shall be abolished not later than 1 January 1974.

Article 8

Protocol No 1 lays down the tariff treatment and arrangements applicable to certain products.

Article 9

Protocol No 2 lays down the tariff treatment and arrangements applicable to certain goods obtained by processing agricultural products.

Article 10

1. In the event of specific rules being established as a result of the implementation of its agricultural policy or of any alteration of the current rules the Contracting Party in question may adapt the arrangements resulting from this Agreement in respect of the products which are the subject of those rules or alterations.

2. In such cases the Contracting Party in question shall take due account of the interests of the other Contracting Party. To this end the Contracting Parties may consult each other within the Joint Committee provided for in Article 29.

Article 11

Protocol No 3 lays down the rules of origin.

Article 12

A Contracting Party which is considering the reduction of the effective level of its duties or charges having equivalent effect applicable to third countries benefiting from most-favoured-nation treatment, or which is considering the suspension of their application, shall, as far as may be practicable, notify the Joint Committee not less than thirty days before such reduction or suspension comes into effect. It shall take note of any representations by the other Contracting Party regarding any distortions which might result therefrom.

Article 13

1. No new quantitative restriction on imports or measures having equivalent effect shall be introduced in trade between the Community and Austria.

2. Quantitative restrictions on imports shall be abolished on 1 January 1973 and any measures having an effect equivalent to quantitative restrictions on imports shall be abolished not later than 1 January 1975.

Article 14

1. The Community reserves the right to modify the arrangements applicable to the petroleum products falling within headings Nos 27.10, 27.11, 27.12, ex 27.13 (paraffin wax, micro-crystalline wax, or

bituminous shale and other mineral waxes) and 27.14 of the Brussels Nomenclature upon adoption of a common definition of origin for petroleum products, upon adoption of decisions under the common commercial policy for the products in question or upon establishment of a common energy policy.

In this event the Community shall take due account of the interests of Austria; to this end it shall inform the Joint Committee, which shall meet under the conditions set out in Article 31.

2. Austria reserves the right to take similar action should it be faced with like situations.

3. Subject to paragraphs 1 and 2, the Agreement shall not prejudice the non-tariff rules applied to imports of petroleum products.

Article 15

1. The Contracting Parties declare their readiness to foster, so far as their agricultural policies allow, the harmonious development of trade in agricultural products to which the Agreement does not apply.

2. The Contracting Parties shall apply their agricultural rules in veterinary, health and plant health matters in a non-discriminatory fashion and shall not introduce any new measures that have the effect of unduly obstructing trade.

3. The Contracting Parties shall examine, under the conditions set out in Article 31, any difficulties that might arise in their trade in agricultural products and shall endeavour to seek appropriate solutions.

Article 16

From 1 July 1977 products originating in Austria may not enjoy more favourable treatment when imported into the Community than that applied by the Member States of the Community between themselves.

Article 17

The Agreement shall not preclude the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade, except in so far as they alter the trade arrangements provided for in the Agreement, in particular the provisions concerning the rules of origin.

Article 18

The Contracting Parties shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products of one Contracting Party and like products originating in the territory of the other Contracting Party.

Products exported to the territory of one of the Contracting Parties may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on them.

Article 19

Payments relating to trade in goods and the transfer of such payments to the Member State of the Community in which the creditor is resident or to Austria shall be free from any restrictions.

The Contracting Parties shall refrain from any exchange or administrative restrictions on the grant, repayment or acceptance of short- and medium-term credits covering commercial transactions in which a resident participates.

Article 20

The Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, law and order or public security, the protection of life and health of humans, animals or plants, the protection of national treasures of artistic, historic or archaeological value, the protection of industrial and commercial property, or rules relating to gold or silver. Such prohibitions or restrictions must not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Contracting Parties.

Article 21

Nothing in the Agreement shall prevent a Contracting Party from taking any measures:

- (a) which it considers necessary to prevent the disclosure of information contrary to its essential security interests;
- (b) which relate to trade in arms, munitions or war materials or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes;
- (c) which it considers essential to its own security in time of war or serious international tension.

Article 22

1. The Contracting Parties shall refrain from any measure likely to jeopardize the fulfilment of the objectives of the Agreement.

2. They shall take any general or specific measures required to fulfil their obligations under the Agreement.

If either Contracting Party considers that the other Contracting Party has failed to fulfil an obligation under the Agreement, it may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 27.

Article 23

1. The following are incompatible with the proper functioning of the Agreement in so far as they may affect trade between the Community and Austria:

- (i) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition as regards the production of or trade in goods;
- (ii) abuse by one or more undertakings of a dominant position in the territories of the Contracting Parties as a whole or in a substantial part thereof,
- (iii) any public aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods.

2. Should a Contracting Party consider that a given practice is incompatible with this Article, it may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 27.

Article 24

Where an increase in imports of a given product is or is likely to be seriously detrimental to any production activity carried on in the territory of one of the Contracting Parties and where this increase is due to:

- (i) the partial or total reduction in the importing Contracting Party, as provided for in the Agreement, of customs duties and charges having equivalent effect levied on the product in question; and
- (ii) the fact that the duties or charges having equivalent effect levied by the exporting Contracting Party on imports of raw materials or intermediate products used in the manufacture of the product in question are significantly lower than the corresponding duties or charges levied by the importing Contracting Party;

the Contracting Party concerned may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 27.

Article 25

If one of the Contracting Parties finds that dumping is taking place in trade with the other Contracting Party, it may take appropriate measures against this practice in accordance with the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, under the conditions and in accordance with the procedures laid down in Article 27.

Article 26

If serious disturbances arise in any sector of the economy or if difficulties arise which could bring about serious deterioration in the economic situation of a region, the Contracting Party concerned may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 27.

Article 27

1. In the event of a Contracting Party subjecting imports of products liable to give rise to the difficulties referred to in Articles 24 and 26 to an administrative procedure, the purpose of which is to provide rapid information on the trend of trade flows, it shall inform the other Contracting Party.

2. In the cases specified in Articles 22 to 26, before taking the measures provided for therein or, in cases to which paragraph 3 (d) applies, as soon as possible, the Contracting Party in question shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Contracting Parties.

In the selection of measures, priority must be given to those which least disturb the functioning of the Agreement.

The safeguard measures shall be notified immediately to the Joint Committee and shall be the subject of periodical consultations within the Committee, particularly with a view to their abolition as soon as circumstances permit.

3. For the implementation of paragraph 2, the following provisions shall apply:

(a) As regards Article 23, either Contracting Party may refer the matter to the Joint Committee if it considers that a given practice is incompatible with the proper functioning of the Agreement within the meaning of Article 23 (1).

The Contracting Parties shall provide the Joint Committee with all relevant information and shall give it the assistance it requires in order to examine the case and, where appropriate, to eliminate the practice objected to.

If the Contracting Party in question fails to put an end to the practice objected to within the period fixed by the Joint Committee, or in the absence of agreement in the Joint Committee within three months of the matter being referred to it, the Contracting Party concerned may adopt any safeguard measures it considers necessary to deal with the serious difficulties resulting from the practices in question; in particular it may withdraw tariff concessions.

(b) As regards Article 24 the difficulties arising from the situation referred to in that Article shall be referred for examination to the Joint Committee, which may take any decision needed to put an end to such difficulties.

If the Joint Committee or the exporting Contracting Party has not taken a decision putting an end to the difficulties within thirty days of the matter being referred, the importing Contracting Party is authorized to levy a compensatory charge on the product imported.

The compensatory charge shall be calculated according to the incidence on the value of the goods in question of the tariff disparities in respect of the raw materials or intermediate products incorporated therein.

(c) As regards Article 25, consultation in the Joint Committee shall take place before the Contracting Party

concerned takes the appropriate measures.

(d) Where exceptional circumstances requiring immediate action make prior examination impossible, the Contracting Party concerned may, in the situations specified in Articles 24, 25 and 26 and also in the case of export aids having a direct and immediate incidence on trade, apply forthwith the precautionary measures strictly necessary to deal with the situation.

Article 28

Where one or more Member States of the Community or Austria is in difficulties or is seriously threatened with difficulties as regards its balance of payments, the Contracting Party concerned may take the necessary safeguard measures. It shall inform the other Contracting Party forthwith.

Article 29

1. A Joint Committee is hereby established, which shall be responsible for the administration of the Agreement and shall ensure its proper implementation. For this purpose, it shall make recommendations and take decisions in the cases provided for in the Agreement. These decisions shall be put into effect by the Contracting Parties in accordance with their own rules.

2. For the purpose of the proper implementation of the Agreement the Contracting Parties shall exchange information and, at the request of either Party, shall hold consultations within the Joint Committee.

3. The Joint Committee shall adopt its own rules of procedure.

Article 30

1. The Joint Committee shall consist of representatives of the Community, on the one hand, and of representatives of Austria, on the other.

2. The Joint Committee shall act by mutual agreement.

Article 31

1. Each Contracting Party shall preside in turn over the Joint Committee, in accordance with the arrangements to be laid down in its rules of procedure.

2. The Chairman shall convene meetings of the Joint Committee at least once a year in order to review the general functioning of the Agreement.

The Joint Committee shall, in addition, meet whenever special circumstances so require, at the request of either Contracting Party, in accordance with the conditions to be laid down in its rules of procedure.

3. The Joint Committee may decide to set up any working party that can assist it in carrying out its duties.

Article 32

1. Where a Contracting Party considers that it would be useful in the interest of the economies of both Contracting Parties to develop the relations established by the Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the other Contracting Party.

The Contracting Parties may instruct the Joint Committee to examine this request and, where appropriate, to make recommendations to them, particularly with a view to opening negotiations.

2. The agreements resulting from the negotiations referred to in paragraph 1 will be subject to ratification or approval by the Contracting Parties in accordance with their own procedures.

Article 33

The Annex and Protocols to the Agreement shall form an integral part thereof.

Article 34

Either Contracting Party may denounce the Agreement by notifying the other Contracting Party. The Agreement shall cease to be in force twelve months after the date of such notification.

Article 35

The Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Economic Community applies upon the terms laid down in that Treaty and, on the other, to the territory of the Republic of Austria.

Article 36

This Agreement is drawn up in duplicate, in the Danish, Dutch, English, French, German, Italian and Norwegian languages, each of these texts being equally authentic.

This Agreement will be approved by the Contracting Parties in accordance with their own procedures.

It shall enter into force on 1 January 1973, provided that the Contracting Parties have notified each other before that date that the procedures necessary to this end have been completed.

After this date this Agreement shall enter into force on the first day of the second month following such notification. The final date for such notification shall be 30 November 1973.

The provisions applicable on 1 April 1973 shall be applied upon the entry into force of this Agreement if it enters into force after that date.

Udferdiget i Bruxelles, den toogtyvende juli nitten hundrede og tooghalvfjerds.

Geschehen zu Brüssel am zweiundzwanzigsten Juli neunzehnhundertzweiundsiebzig.

Done at Brussels on this twenty-second day of July in the year one thousand nine hundred and seventy-two.

Fait à Bruxelles, le vingt-deux juillet mil neuf cent soixante-douze.

Fatto a Bruxelles, il ventidue luglio millenovecentosettantadue.

Gedaan te Brussel, de tweeëntwintigste juli negentienhonderdtweeënzeventig.

Utferdiget i Brussel, tjueandre juli nitten hundre og syttito.

[Signatures]