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By 1957, the *General Agreement on Tariffs and Trade* (GATT), in operation since 1948, covered 37 countries which, between them, accounted for almost 80 % of the world's trade. Its main purpose was the conclusion of reciprocal and mutually advantageous agreements geared towards the substantial reduction of customs tariffs and other barriers to trade and to the elimination of discriminatory treatment in international commerce. The establishment of the European Economic Community (EEC), whose Member States were to bring their national tariffs into line in a common customs tariff, was a major event in the history of international trade. The Six (the Federal Republic of Germany (FRG), Belgium, France, Italy, Luxembourg and the Netherlands) were also contracting parties to the GATT and were, therefore, required to meet the obligations to which they had signed up under this instrument.

This was, of course, something of which the draftsmen of the EEC Treaty were well aware. Article 110 of the Treaty states that 'by establishing a customs union between themselves Member States aim to contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and the lowering of customs barriers'. In addition, Article 234 states that 'the rights and obligations arising from agreements concluded before the entry into force of this Treaty between one or more Member States on the one hand, and one or more third countries on the other, shall not be affected by the provisions of this Treaty'. It goes even further in recognising the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries party to such agreements, provided that the purpose of the agreements is to facilitate trade between the constituent territories and not to raise barriers to trade for other countries. In practice, there are only two cases where discrimination, or a preferential system, is allowed: a customs union or a free-trade area. Article 24 of the GATT sets out the conditions to be met for a merger of separate customs territories to be regarded as a customs union. It also provides that 'any contracting party deciding to enter into a customs union or free-trade area, or an interim agreement leading to the formation of such a union or area, shall promptly notify the contracting parties and shall make available to them such information regarding the proposed union or area as will enable them to make such reports and recommendations to contracting parties as they may deem appropriate'. In other words, the GATT does not allow all forms of customs union, since it reserves the right to consider plans which countries are required to submit to it and even the right to reject plans which it does not deem justified.

The Treaty of Rome was attacked by almost all the delegations to the various GATT committees and working parties, but it was the countries which were to form the European Free Trade Association (EFTA) in 1960 and the white Commonwealth countries (Australia and New Zealand) which were most vehemently opposed. Some promptly claimed that the common market went beyond the customs unions provided for in the GATT and was contrary to its spirit and wording, and they therefore called for it to be suspended. In practice the main criticisms related to the level of the common external tariff (CET), the special clauses relating to agriculture, which were seen as too protectionist, and the system of quantitative restrictions, which now took account of the overall situation of the Community rather than of the individual situation of each of the Six. However, it was the EEC's association with the Overseas Countries and Territories (OCTs) which presented the most problems, because of the preferential treatment which their products enjoyed in the common market that led a number of third countries to call for some of these provisions to be reviewed before the EEC Treaty came into force. Because the GATT rules required compensation to be granted to third countries if a customs union or free-trade area was created, the Six informed the GATT contracting parties of their intentions before the Intergovernmental Conference on the Common Market and Euratom had even concluded its work, presenting them with the Spaak Report and informing them of the state of preparation of the Common Market Treaty as early as October 1956. Without further ado, the GATT Intersessional Committee, the select body responsible for preparing work for the contracting parties' Assembly, decided to enter the following item on the agenda for the 11th session, which was to start in Geneva on 11 October: 'proposal to strengthen economic integration in Europe through the creation of a customs union or a free-trade area'. France, feeling that the GATT was jumping the gun, vehemently objected to an international organisation trying to control ongoing international negotiations and insisted that the Six should adopt a common position on the subject.

On 20 December 1956, the Committee of Heads of Delegation at Val Duchesse established the principle that the provisions of the Treaty and the agreements on the association of the OCTs with the Common Market had to comply with the GATT rules. The Six also undertook to submit the Treaty establishing the EEC to the GATT after it was signed but before ratification. This was done on 17 April 1957. Some of the contracting parties immediately suggested that an extraordinary session of the GATT should be held straight away, but, in the end, consideration of the Treaty was held over until the regular session in October 1957, on condition that the Six agreed to provide clarifications on the points to be discussed.

Baron Jean-Charles Snoy et d'Oppuers, Secretary-General at the Belgian Ministry of Economic Affairs and President of the Interim Committee for the Common Market and Euratom, was sent by the Six to the meeting of the Intersessional Committee of the GATT contracting parties. He set about refuting the criticisms of the Treaty of Rome, stressing that the common market would contribute to the development of international trade because of the general expansion that would result from combining the economies of the Six. The Six were resolved to make it very clear that they wanted to be subject to exactly the same obligations as those required of all the contracting parties. For the Six, what was crucial was to show the contracting parties that the EEC Treaty provisions both on European economic integration and on the economic integration of the OCTs were consistent with the GATT rules and that it was up to the third countries to prove otherwise.

On 29 May 1957, the Interim Committee presented to the contracting parties a memorandum outlining the mechanism of the Treaty, particularly the form and scope of the arrangements for the association of the OCTs, and its relationship with the GATT. The wording of the document made it clear that the Six would not agree to the contracting parties considering the association arrangements separately from the other provisions of the Treaty. The Six also pointed out that they had already provided the information and documentation which the contracting parties needed to form an opinion on this subject. On 25 July 1957, the Six replied to a questionnaire which reflected the contracting parties' fears that the development of trade between the Six would damage traditional trade. Regarding the OCTs' association with the EEC, the Six said that they could not ignore the problems arising from the fact that some of them had institutional relations with various countries and territories outside Europe. It was, however, impossible to envisage the OCTS' outright inclusion in the common market. So, in order to respect the principles set out in the United Nations Charter by promoting the economic and social development of the OCTs, the Six had set as an objective of the Treaty the establishment of a free-trade area in accordance with Article 24 of the GATT through the abolition of trade barriers between the six Member States and the OCTs. They also stressed that the Treaty did not alter the customs tariffs applied by the OCTs to imports from third countries.

Finally, on 16 September 1957, the Six, deeming the GATT's fears to be unfounded, forwarded a specimen common customs tariff for products considered to be the most typical of trade between the Member States and the third countries in the GATT. They had to persuade everyone that the EEC was not pursuing an autarchic policy. The contracting parties felt that further consideration to establish whether the Treaty of Rome was legally compatible with the GATT would not alter the Six's determination, and so they decided to leave the legal problems to one side in order to pursue consultations solely on tropical products (coffee, cocoa, tea, sugar and bananas). Although worried that trade would be diverted to the advantage of third countries, they were unable to provide any real proof of any direct damage or commercial disadvantage. From then on, consideration of the Treaty of Rome became less and less prominent in the GATT discussions.