

BELGIAN FAMILY ALLOWANCES
(ALLOCATIONS FAMILIALES)

*Report adopted by the CONTRACTING PARTIES
on 7 November 1952 (G/32 - 1S/59)*

I. *Examination of the Legal Issues Involved*

1. The Panel on Complaints examined the legal issues involved in the complaint submitted by the Norwegian and Danish delegations regarding the application of the Belgian law on the levy of a charge on foreign goods purchased by public bodies when these goods originated in a country whose system of family allowances did not meet specific requirements.

2. After examining the legal provisions regarding the methods of collection of that charge, the Panel came to the conclusion that the 7.5 per cent levy was collected only on products purchased by public bodies for their own use and not on imports as such, and that the levy was charged, not at the time of importation, but when the purchase price was paid by the public body. In those circumstances, it would appear that the levy was to be treated as an "internal charge" within the meaning of paragraph 2 of Article III of the General Agreement, and not as an import charge within the meaning of paragraph 2 of Article II.

3. According to the provisions of paragraph 1 of Article I of the General Agreement, any advantage, favour, privilege or immunity granted by Belgium to any product originating in the territory of any country with respect to all matters referred to in paragraph 2 of Article III shall be granted immediately and unconditionally to the like product originating in the territories of all contracting parties. Belgium has granted exemption from the levy under consideration to products purchased by public bodies when they originate in Luxemburg and the Netherlands, as well as in France, Italy, Sweden and the United Kingdom. If the General Agreement were definitively in force in accordance with Article XXVI, it is clear that that exemption would have to be granted unconditionally to all other contracting parties (including Denmark and Norway). The consistency or otherwise of the system of family allowances in force in the territory of a given contracting party with the requirements of the Belgian law would be irrelevant in this respect, and ~~that~~ the Belgian legislation would have to be amended insofar as it introduced a discrimination

the granting of the exemption dependent on certain conditions.

4. The Panel wishes to stress that this undertaking to extend an exemption of an internal charge unconditionally is not qualified by any other provision of the Agreement. The Panel did not feel that the provisions of paragraph 8 (a) of Article III were applicable in this case as the text of the paragraph referred only to laws, regulations and requirements and not to internal taxes or charges. As regards the exception contained in paragraph 2 of Article XVII, it would appear that it referred only to the principle set forth in paragraph 1 of that Article, i.e. the obligation to make purchases in accordance with commercial considerations and did not extend to matters dealt with in Article III.

5. The

6. The Panel noted, however, that, in another case, the CONTRACTING PARTIES agreed that the Protocol of Provisional Application had to be construed so as to limit the operation of the provisions of paragraph 1(*b*) of the Protocol to those cases where "the legislation on which [the measure] is based is, by its tenor or expressed intent, of a mandatory character - that is, it imposes on the

price, the proceeds of which shall accrue to the National Compensation Fund with the view to compensating for the charge on domestic production resulting from this Act.

.....

Article 131

For the purpose of Article 130 above, legislative provisions shall deem to be of general applicability whenever they apply either to all or to a majority of the Directors of Undertakings in the country concerned.

.....

The permission not to effect the deduction provided for by Article 130 above further implies that contributions paid by Directors of Undertakings abroad shall amount to 80 per cent at least of those provided for in this Act, and that they shall be payable with regard to all the persons employed by the Undertaking both salaried employees and wage earners.

Article 132

An order by the Ministry of Labour and Social Insurance, enacted upon the advice given by the Committee on Family Allowances, shall determine those countries in which the requirements laid down in Article 131 above are met.