

GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONTRACTING PARTIES
Twelfth Session

SUMMARY RECORD OF THE MEETINGS

held at the Palais des Nations Geneva
on Thursday, 7 November at 10 a.m. and 3 p.m.

- Subjects discussed:
1. Association of overseas countries and territories
 2. Appointment of Sub-Groups
 3. Euratom Treaty

1. Association of overseas countries and territories

The CHAIRMAN invited the Committee to consider the provisions of the Treaty concerning the association of overseas countries and territories with the Community, in relation to the provisions of the General Agreement.

Mr. MAKATITA (Indonesia) recalled that the decision to associate certain overseas countries and territories with the Community had come as a surprise to many countries. It raised difficulties not only from the point of view of GATT but also for individual countries, particularly the underdeveloped countries producing tropical and semi-tropical products and which had achieved independence in the recent past. The General Agreement included special provisions to meet the special needs of underdeveloped countries, in Article XVIII, but the Treaty of Rome envisaged the establishment of a new preferential system which would be inconsistent with Article I of the General Agreement. The trade of third countries would be affected by the change in consumption habits that would probably result from the granting of special treatment to the products of the overseas countries and territories, and he mentioned tea as a commodity likely to suffer. Furthermore, the overseas territories would have a great incentive to increase their production of commodities such as tobacco which were at present imported to a considerable extent by the Six from third countries. There was a need for detailed and continuing study of the possible effects of the arrangement on traditional trade currents, on a country-by-country and commodity-by-commodity basis, first in the sub-group, and then perhaps by an agreement such as provided for in Article 238 of the Treaty. Another question for consideration was the fact that almost all the territories listed in Annex B to the General Agreement were covered by special provisions in the Treaty, whereas Indonesia was listed in Annex C. The replies by the Interim Committee had not been as full as they might have been, and there was still room for further examination by the GATT, and perhaps even for negotiations between the CONTRACTING PARTIES and the Six.

Mr. Makatita said that there were too many aspects of this question that fell outside the ambit of Article XXIV and his delegation felt, therefore, that it could only be dealt with by a waiver under Article XXV.

Mr. KAWASAKI (Japan) considered that the provisions of Article 133 which would result in the extension of preferences to goods originating in other Member States could not be deemed to be consistent with Article I of the GATT, and therefore a waiver from the latter would be required. Further clarification was necessary regarding the "reasonable period" referred to in the reply to question 104, and also regarding the amount of trade on which duties and other restrictive regulations of commerce would be eliminated in accordance with Article XXIV:8(c) of the General Agreement. The sub-group should examine carefully the basis of the quotas referred to in Article 11, paragraph 2 of the Implementing Convention, and also ask for a programme for the liberalization referred to in paragraph 3 of the same Article. The validity of the Implementing Convention was only five years and not enough information had been supplied with regard to plans thereafter to enable the CONTRACTING PARTIES to judge whether the provisions of the General Agreement were complied with.

Mr. VALLADAO (Brazil) pointed out that, unlike some of the Treaty provisions, which might or might not be operated in a manner inconsistent with the GATT, the association of the overseas countries and territories was clearly a departure from Article I of the General Agreement, and would require the approval of all contracting parties. In this connexion, he recalled that at the Ninth Session it had been decided that Part I of the General Agreement should not be substantially amended. The Treaty was currently being studied by the CONTRACTING PARTIES in the light of the obligations of the Six as contracting parties under the GATT. In the negotiations which had led to the text of the GATT, the individual countries had naturally tried to gain recognition of their own situation with regard to balance-of-payments difficulties, economic development and so on, and provision had been made (Article I:2 and the Annexes) for certain preferential arrangements to continue as a deviation from the general principle of most-favoured-nation treatment. Brazil had accepted that arrangement in the belief that the Havana Charter would come into force at an early date, opening new possibilities for the under-developed countries. The fact that a plan had now been put forward which would extend existing preferences was a matter for grave concern to the GATT, and it was essential that the Six should provide adequate safeguards for the interests of other contracting parties. Exporters of agricultural products were faced with the fact that the tariffs had not yet been established; quantitative restrictions might be imposed; and the Committee had heard a very full statement by the Australian representative on the potential dangers that might arise from the agricultural policy. The association of overseas countries and territories which provided the possibility of an assured market for their products in the Community and an investment programme also required careful consideration in the context of the General Agreement. It might even be necessary to consider whether it would be appropriate to consider amending the GATT in

order to bring it into line with present requirements, since the proposed association would constitute a departure from Article I.

Mr. QUIST-THERSON (Ghana) said that his country had a particular cause for concern at the proposed association of overseas countries and territories with the Community. Cocoa was Ghana's principal export commodity and indeed nearly the total production was exported; under the Treaty a 9 per cent duty would be imposed on cocoa imported into the Community, while imports from the associated countries would receive duty-free treatment. Immediately before the Treaty was drawn up, the average rate of duty, including purchase tax, applied in the Six countries was 4.1 per cent (Federal Republic of Germany, 10 per cent; France and Italy, nil; Benelux, nil, but subject to 5 per cent purchase tax on landed value). It was therefore difficult to see how the rate of 9 per cent had been arrived at, and it constituted an infringement of Article XXIV of the General Agreement, being higher and more restrictive than the previously existing rates. On the basis of Ghana's exports to the Six in 1956 (of which over 50 per cent went to the Federal Republic of Germany), there would be an increase of nearly £400,000 in the amount levied on Ghana cocoa after the entry into force of the Treaty, assuming that the 5 per cent purchase tax was assimilated into the new 9 per cent duty. The result would obviously be that, in the first place, cocoa consumption in the Community would decline and Ghana's cocoa industry would suffer. The second, and even more serious, result would be that, with the assurance of duty-free admission into the European Common Market, cocoa production in the associated countries and territories would increase. In order to be able to compete, Ghana would be obliged to reduce the prices it charged for cocoa by the amount of the duty; since cocoa was Ghana's leading export, the national revenue, both for recurrent and development expenditure, would be adversely affected to a considerable extent. Furthermore, again on the basis of 1956 figures, duty paid on imports into the Six from the overseas countries and territories amounted to just over £1 million; that was the measure of the new preference to be granted to them.

He therefore wished to know on what basis the rate of 9 per cent had been computed, and what purpose the common tariff was intended to achieve. If the intention was to keep out Ghana cocoa from the Community and replace it by imports from the associated overseas countries and territories, the provisions of Article XXIV:5(b) of GATT would not be met. Ghana saw no objection to any form of assistance which the Six might wish to give their overseas countries and territories, provided it was not given at Ghana's expense. As his Minister had stated, practically all goods could be imported into his country under Open General Licence from all countries, and in accordance with the letter and spirit of GATT, Ghana expected to receive reciprocal treatment. In order to remove the hardship which threatened Ghana, either tropical agricultural products should be excluded from the scope of the Treaty, or the dependent overseas territories should be associated with the Community on the same tariff basis as other territories, i.e. they should be subject to the same customs duties as other territories which were physically outside the Community in regard to trade in agricultural products, except in relation to their own metropolitan power. It seemed to him that the Treaty provisions for the overseas territories contravened Article XXIV of the General Agreement and that a waiver under Article XXV would be required.

Mr. CHRISTIE (Union of South Africa) stated that his delegation attached a great deal of importance to the Treaty provisions relating to the association of the overseas countries and territories with the European Economic Community. While fully conscious of the fact that serious commercial policy problems would be created if the overseas territories were excluded, in view of the special relations existing between these territories and the metropolitan countries, his delegation could not escape the impression that the arrangements agreed upon were not likely to lead to a result consistent with the provisions of Article XXIV. Indeed, as he saw it, the more likely result was going to be the creation of a new preferential régime.

According to Article 132, paragraph 1, and Article 133, paragraph 1, the Member States would, in the course of the transitional period, open their common frontier completely to goods coming from the overseas territories. That applied to tariffs and quantitative restrictions alike. As far as trade moving from the overseas territories to the Member States was concerned, therefore, there was the prospect of a free-trade area coming into being, but the same could not be said of trade moving in the opposite direction. Article 133, paragraph 2, provided that customs duties imposed on imports from Member States should be progressively abolished in conformity with the provisions of Articles 12, 13, 14, 15 and 17, but apparently the complete abolition of tariffs was not visualized, because Article 132, paragraph 2, provided that each territory should apply the same rules which it applied in respect of the European State with which it had special relations to its commercial exchanges with other Member States. He believed that, in practice, these two sets of rules involved no conflict at present but that gave no assurance for the future. The overseas territories, in his view, were only committed to reduce their tariffs to the extent of the difference between the rates applicable to imports from the outside world and those applicable to imports from the metropolitan country, whatever the latter may be in future. If that interpretation should be correct - and he added that that was the way the matter was presented to the parliament of one of the Member States - then that would seem to be a clear case of a general extension of preferences.

It had been argued on behalf of the Six that what they proposed doing did not deviate from the requirements of Article XXIV because that Article only required that in a free-trade area trade restrictions should be removed in respect of substantially all the trade concerned. In his view, however, the fundamental objective of a free-trade area was that there should be a gradual elimination of tariffs and other trade barriers. This seemed to him to be contrary to the notion of a free-trade area that new tariff barriers should be erected within the area, but that was just what was contemplated under the proposed arrangements. According to Article 133, paragraph 3, the overseas territories might apply such customs duties as were necessary for their industrial development and that would surely tend to introduce further imperfections in the promised free-trade area in spite of the fact that these

measures might well be justified in the interests of economic development. He wondered whether it was realistic to visualize a complete free-trade area between countries as highly developed as those of the Six and relatively under-developed areas such as their overseas territories.

He appreciated that as far as certain overseas territories were concerned, the Member States were bound by the provisions of earlier treaties, but quite apart from these obligations it did not seem to his delegation that the proposed association would yield a product which would conform to the provisions of Article XXIV.

Mr. OSMAN ALI (Pakistan) said that he was in complete agreement with the view that the provisions of the Treaty relating to the association of the overseas territories would have adverse repercussion on the trade of many underdeveloped countries. His apprehension arose from the fact that there would be an incentive to divert the trade which might result in a replacement of the traditional sources of supply. Moreover, some of the provisions were not entirely consistent with the General Agreement. For instance, the tariff arrangements between the Six and their overseas territories would result in an extension of preferences contrary to Article I. Moreover, Article 133 of the Treaty would enable the overseas territories to levy new customs duties and that appeared to his delegation to be a significant deviation from the provisions of Article XXIV, paragraph 2(b). He would wish this question to be discussed in greater detail by the proposed sub-group. He referred to the Implementing Convention annexed to the Treaty which, under the provisions of Article 136, could determine for a first period of five years the procedures concerning the association of overseas territories; thus there was uncertainty as to what would happen and this raised a question about the plan and the time table for achieving the stated objectives. An examination of the Treaty provisions relating to the association of the overseas territories led his delegation to the conclusion that the proposed arrangements did not fall entirely under the provisions of the Article XXIV and would necessitate a waiver under the Article XXV.

Mr. SWAMINATHAN (India) stated that the arrangements envisaged for the association of the overseas territories clearly amounted to an extension of the areas of preference. Article I paragraph 2 recognized the special relations which existed when the General Agreement was originally drafted. However, the introduction of any new preferences would considerably weaken the foundations of the multilateral trading system which the General Agreement embodied and that accounted for the apprehension of his delegation.

The arrangements proposed, in his view, did not conform to the concept of a customs union and a free-trade area of Article XXIV. The imports originating in the Six would not always be accorded a free-entry treatment into the overseas territories because the latter would undoubtedly take measures to protect their developing industries. In his opinion, Article XVIII should be invoked to assist the industrialization of the overseas territories

and no short cuts should be resorted to. The proposed arrangements did not accord with the provisions of Article XXIV and hence could require a waiver under the provisions of Article XXV. Moreover, his delegation was concerned about the linkage of political dependency with economic development and they wondered why the overseas territories should not derive advantages accruing from a competitive supply which the principles of non-discrimination under the GATT afforded.

Mr. GARCIA OLDINI (Chile) shared the view of the Indian representative that the appropriate means to assist the underdeveloped overseas countries and territories was through Article XVIII of the General Agreement. The association of those countries with the Community in a free-trade area would not only be of advantage to them, but even more to the Six, which were among the most highly industrialized countries of Europe and certainly needed no assistance for economic development. The interest of other under-developed countries would be very seriously affected by the association, and their only defence lay in the provisions of the General Agreement. The proposed association, although presented in Articles 133 and 134 and the Implementing Convention as a free-trade area, amounted to an extension of a preferential area and should be considered in the light of Article I:2 and the relevant Annexes of the General Agreement. The apprehensions of contracting parties about the arrangement were well founded in fact and in law. Consideration should also be given to the procedures that would be applied vis-à-vis third countries, because if the CONTRACTING PARTIES were eventually to come to the conclusion that the association could be operated as a free-trade area, the requirements of Article XXIV:5(b) of the General Agreement would still have to be fulfilled. It had been stated that the overseas countries and territories would maintain their present tariffs; the Six were, however, in the process of changing their tariffs completely, and how could those provisions therefore be said to be complied with? There was a basic incompatibility between two provisions of the same instrument. On the one hand, the Treaty established a customs union in which under the GATT the duties could be changed, and, on the other hand, it created a free-trade area for which the General Agreement required the maintenance of existing duties. Even if all the other conditions were met - which was not the case - that requirement for a free-trade area could not be fulfilled. As the Japanese and Brazilian representatives had said, the proposed arrangement constituted an extension of a preferential area, and must therefore be considered as a proposal to amend Part I of the Agreement requiring unanimous approval by the CONTRACTING PARTIES. Nevertheless, he was confident that with patience and goodwill a solution could be found which would safeguard the interests of the GATT and also permit the realization of the great venture on which the Six had embarked.

Mr. VARGAS GOMEZ (Cuba) said that the stated objective of the association of the overseas countries and territories - to promote their economic and social development - was fully consistent with the basic aims of GATT and with present-day economic philosophy and political tendencies; he would not question the right of members of the Community to foster the economic development of their

dependent territories, but the CONTRACTING PARTIES had to determine whether the proposed association fell within the scope of Article XXIV of the General Agreement or if it had to be justified under other provisions of the Agreement. Cuba shared the view of other contracting parties which had pointed out that the association as defined in the Treaty of Rome did not conform to the requirements of the GATT regarding free-trade areas. Article 133 permitted the overseas countries and territories to levy customs duties for economic development or revenue purposes, and it was to be expected that a wide range of goods would be affected. The main issue, however, was not the juridical problem of whether the association was within the scope of Article XXIV or, as he considered, should be the subject of a waiver under Article XXV:5(a), but rather the practical economic implications of the establishment of the association. It was clear that the association would result in an extension of the existing preferential systems between the Member States and their colonies and territories. It was also a fact that care had to be taken in any close economic association between under-developed territories and fully-developed countries in order not to obstruct the economic development of the former. He believed, however, that within the framework of GATT there was sufficient political flexibility and international solidarity to enable a solution to be found for those problems. It had to be realized that in the period before the Community could achieve its objectives of increasing income and expanding demand within the common market, the extension of the preferential area would bring about a reduction of trade with third countries and a readjustment and development of production within the Community to the detriment of third countries. That was a cause for even greater concern than was the common tariff. If the contracting parties believed that regional economic integration was only a step towards wider international integration, they must be assured of the Community's ability to co-ordinate its economic life with that of other countries, and in particular to avoid any threat to the economic development of other under-developed countries. A spirit of international co-ordination and solidarity had already resulted in some progress in the field of primary products with a view to giving more stability to countries whose economic stability was largely dependent on trade in them. Cuba expected the Community to follow the same principles of co-ordination and solidarity as its constituent States had done in the past, and to participate in discussion and action to contribute to the economic stability of all countries.

Mr. VAN LANGENBERG (Ceylon) said that his delegation shared fully the misgivings expressed by other speakers with regard to the so-called free-trade area. The General Agreement contained special provisions to meet the need of under-developed countries, and Ceylon had made good use of them. But nothing in the General Agreement justified the granting of advantages to a group of under-developed countries, to the detriment of other under-developed countries. He agreed that the proposed association was not in conformity with Article XXIV, and a waiver under Article XXV would be necessary.

Mr. GONZALES CASAL (Uruguay) said that of the arrangements envisaged by the Treaty, the association of the overseas countries and territories with the Community was perhaps the one with the greatest impact for the world trading system which had been established by the General Agreement, and he agreed with the Brazilian representative that it affected the basic principles of the Agreement.

It was generally felt in Uruguay that the Treaty was distinctly protectionist in nature. In the first place, the decision to take the arithmetical average as the basis for computing the common tariff duties would result in price increases that might be substantial in the low-tariff countries such as Benelux. Secondly, the proposed association went even further in the direction of protectionism. Although Uruguay was not one of the individual countries likely to be affected, the arrangement was of great import to Latin America as a regional unit; 80 per cent of Latin America's exports were made up of fifteen commodities, which were also produced by the countries and territories of the new association. Petroleum accounted for 28 per cent of Latin America's total exports, and that area supplied 45 per cent of total world sales of coffee, sugar, wheat, cocoa and cotton. The associated overseas countries and territories were already exporting agricultural products in considerable quantities; their production potential was in future to benefit from very wide outlets, investment and a preferential tariff régime.

Furthermore, the proposed association would not be in accordance with certain universally-recognized economic principles. In the field of international economic relations, regional conception was growing in importance, to the detriment of the principle of non-discrimination. That trend was based on the belief that regional arrangements for customs unions or free-trade areas were a means to overcome the incompatibility between economic and political considerations which in the latter case stemmed from nationalism. The most recent examples of such arrangements were the ECSC and now this Treaty. The preference system evolved at the 1932 Ottawa Conference was another special system, and had been recognized in the General Agreement although it was in principle a deviation from the most-favoured-nation clause. The establishment of the European Common Market reduced the scope of that clause and strengthened the cause of regionalism, and it was to be feared that the plan for a European free-trade area, currently being studied in OEEC, which would include almost all the Western European countries, would be another step in that direction. The countries that would suffer would be those which were outside the area covered by the arrangement. That would be neither equitable nor reasonable, and the problem therefore required most careful study in all its practical aspects in order to find a solution that all could accept; some method of compensation would be required that would permit the areas outside the Common Market and, eventually, the free-trade area to grant preferences on a basis similar to the Commonwealth, French Union and Benelux systems, all of which had been authorized to continue by GATT. In the case of the Latin American countries, a precedent could be found in trade agreements between them and overseas countries, some of which provided that the facilities granted to other Latin American countries would not be extended to the overseas countries concerned under the most-favoured-nation clause. In the case of Uruguay, that special treatment was granted to neighbouring countries and to Bolivia and Paraguay. The Havana Charter had made provision for preferences of that type in the interests of economic development but the contracting parties to GATT had never approved them, although the question had been raised again during the review session. Uruguay,

therefore wished to reserve for Latin America the right to grant regional preferences in the interests of economic development and trade expansion, and he would refer to the matter again during the discussions in the sub-group.

Mr. SANDERS (United Kingdom) stated that the views of his delegation on this subject were very clearly on the record. At the Intersessional Committee Meeting in April just after the Treaty had been published, a very representative body of opinion expressed itself as doubting the consistency of the proposed arrangements with the GATT. His delegation had examined carefully the arguments of the Six, outlined in their replies to the questionnaire submitted to them by the CONTRACTING PARTIES, that their arrangements aimed at a free-trade area relationship consistent with the GATT. Although the overseas territories not covered by existing international obligations at present charged duties on imports from their metropolitan countries on only a minute fraction of their trade, the Treaty clearly left the way open for the introduction of protective duties in the overseas territories in the future. It seemed to his delegation that that was where the arguments of the Six seemed most clearly to break down. The Six seemed to imply that the use that might be made of this provision of the Treaty in future would still leave substantially all the trade free of duties or other restrictions. But there was no assurance of this in the terms of the Treaty. In view of the fact that great stress had been laid by the Six on the need to promote and develop the industrialization of the overseas territories, it seemed to his delegation, from experience and observation, that the development of industry would only take place behind tariff and other protection, which meant that the existing relationship between certain overseas territories and their metropolitan countries would move towards something which became progressively less like a free-trade area satisfying the definition of Article XXIV.

The present relationship between the overseas territories and their metropolitan countries could be described as being a preferential system as defined in Article I. When the Treaty of Rome would come into force, the same relationship would exist between the overseas territories and their metropolitan countries, except that duties might be introduced in the overseas territories on imports from their metropolitan countries. He therefore wondered how it could be that in terms of the GATT one should suddenly view what the GATT had always regarded as a preferential system and subject to the limitations which the GATT imposed on these, as something different, when it would in fact be the same thing in terms of the GATT in its essential characteristics.

It had been pointed out that the United Kingdom had its own preferential system and he said that his Government had not always been happy under the restraints imposed by the no-new-preference rule. He recalled the jealousy with which contracting parties viewed the United Kingdom's desire for freedom to make even nominal increases in preferential margins. He also reminded the CONTRACTING PARTIES of the view they took in the course of the Ninth Session when an Australian proposal for the amendment of Article I was under consideration. For many countries, including his own, the most-favoured-nation principle embodied in Article I was the cornerstone of the Agreement and the maintenance of that Article was one of the fundamental elements of the bargain which formed the basis for participating in the Agreement and therefore it should remain inviolate.

He also wished to remind the CONTRACTING PARTIES of the terms and procedures and the conditions laid down in the Decision of 5 March 1955 concerning the special problems of the overseas territories of the United Kingdom, and he quoted paragraph 3(1) of that Decision. The circumstances with which that Decision had to deal seemed to him to be very close to those with which the CONTRACTING PARTIES were at present concerned.

While his delegation fully appreciated the political and other considerations which had shaped the position of the Six on the problem of the association of overseas territories with the Community, there was also the fact that this raised political problems for the United Kingdom and for other contracting parties. His Government had been subject from time to time to demands from their own overseas territories to help achieve similar objectives by increasing existing measures of preference. His Government had made very modest and careful use of the facilities afforded by the waiver, although these facilities did not enable them to meet all the pressures, and when faced by these pressures they had to say that their obligations under the GATT would not allow them to do more. One of the arguments used by their own territories was the striking comparison between the margins of preference enjoyed in the United Kingdom by them and the margins that other overseas territories enjoyed in their metropolitan countries. He did not want to compare the relative degrees of protection afforded by different preferential systems, but he thought that on the whole their preferential margins affecting tropical and semi-tropical products were fairly modest compared with those of others. He recognized that with the introduction of the common tariff the French preferential margins would be reduced, but at the same time new preferences would come into existence elsewhere in the Community.

His delegation shared what seemed to be the majority view that the proposed arrangements fell outside the scope of Article XXIV and constituted an extension of existing preferential arrangements requiring a waiver under Article XXV. His delegation was not suggesting that the Six should be called upon to abandon their plans for the association of the overseas territories with the Common Market. However, the introduction of such a new or extended preferential system must be made acceptable in the terms of the GATT, paying due regard to the important concerns of outside countries who might see damage in it for their interests.

At the plenary meeting, the representative of his country had spoken of appropriate adjustments and safeguards for the interests of other contracting parties and, as they understood it, the Community had power under the Treaty of Rome to deal with problems such as might arise. In the field of tariff preferences arising through the introduction of the common tariff he would feel that while the real problems were important in terms of the interests of outside countries, their number was not so large as to make the situation unmanageable or incapable of solution and he felt confident that solutions could be found. Moreover, he felt concerned that other protective devices should not be used inconsistently with the GATT to give preferential assistance to the products of the overseas territories.

The one argument which they would find difficult to accept was that problems should be left unresolved over a long period because it would be many years before the preferential arrangements became fully effective. In fact the shape of the arrangements ultimately to apply would begin to affect production and development plans immediately and it was important that discussion should take place at the earliest possible stage. In this connexion he recognized that these, like other problems, might not be capable of being tackled in political terms until the Institutions of the Community came into being and were in a position to deal with the questions involved. He suggested that one of the things the Sub-Group could usefully do would be to explore with the Six and the representative of the Interim Committee the procedure and timetable which might be established for discussions under its aegis between other contracting parties and the Six as early as practicable after the Treaty came into force - presumably in the New Year - on the particular problems raised by the proposed arrangements.

Mr. WARREN (Canada) said that his delegation had carefully considered the argumentation advanced by the Six that the proposed arrangements were consistent with the provisions for a free-trade area as prescribed in Article XXIV and like many other contracting parties his delegation had remained unconvinced. The provisions of Article 133 of the Treaty would not only permit the overseas territories to increase existing duties on imports from third countries, but also to impose new duties. There was also some uncertainty as to the plan and schedule to be developed after the initial five-year period. Of particular significance was the possible trade effects which might flow from these provisions. It was clear that many countries in the process of economic development, and with a limited range of exports, stood to have their interests affected. Any effects on their trade could have repercussions on the trade of other contracting parties. Some way would have to be found, therefore, to reconcile the interests of outside contracting parties with the desire of the Six to stimulate and develop the overseas territories through their association with the Common Market.

Mr. JOCKEL (Australia) said that the Committee had reviewed some of the practical trade impacts of the proposals and had also heard the doubts voiced by many contracting parties as to whether the arrangements could be regarded as a plan leading to the formation of a free-trade area. He expressed the view that these practical issues and the issue of principle came together for examination against the criteria that a free-trade area shall not raise barriers to the trade of other contracting parties and shall provide for free-trade in substantially all the trade between the partners. In this connexion a number of contracting parties had pointed to the provisions which, in fact, adversely affected their trade. Further, the representative of the United Kingdom had set out convincingly the reasons why protective duties for developmental purposes could not be expected to remain negligible or relatively insignificant.

The arguments had therefore reinforced the view of his delegation that the arrangements could not be regarded as a free-trade area and should be viewed as an extension of preferences which could raise barriers to the trade of other under-developed exporting countries unless appropriate safeguards were introduced. His delegation, however, would be prepared to support a practical solution which would both harmonize the arrangements contemplated in the Treaty with the objectives of the General Agreement and take into account the interests of third countries.

Mr. CHRISTENSEN (Denmark) said that several aspects of the arrangements infringed on essential principles of the General Agreement to which his delegation attached great importance, in particular the most-favoured-nation clause and the no-new-preference rule. Danish exports to the overseas territories had been expanding and it was natural, therefore, that his delegation should be concerned to ensure the maintenance of most-favoured-nation treatment for entry into these markets. Acceptance of the proposals under Article XXIV would seriously affect the interpretation of the General Agreement and weaken its effectiveness as an instrument for governing world trade. He expressed the hope that the Working Party, after an examination of all the possible consequences of the arrangements, would be able to arrive at a solution mutually satisfactory to interested contracting parties and the Six and to the CONTRACTING PARTIES as a whole.

Mr. CORSE (United States) said that one conclusion that could be drawn from the discussion was that this subject would certainly have to be examined further in great detail. Reference had been made to the related provisions of Articles I, XVIII, XXIV and XXV, and his delegation would naturally be particularly concerned with respect to Article I. With regard to the substantive question of the association of the territories to the Common Market, he agreed that there would be a need to take into consideration the trade aspects that could develop as a result of the arrangements. His delegation would give its maximum assistance in an endeavour to arrive at a satisfactory solution to the problems involved.

Mr. SHAW (Rhodesia and Nyasaland) said it was the view of his delegation that since Article 133 of the Treaty permitted the possible imposition of protective and other duties by the overseas territories. The arrangements appeared to be a denial of a free-trade area as envisaged in Article XXIV. Moreover, the proposal to accord the preferences now enjoyed in the metropolitan territory of one Member State to the other five parties in fact would constitute an extension of preference. His country had an important interest in the future development of the trade aspects of the arrangements. He cited the case of tobacco, an important item in Rhodesia and Nyasaland's exports to the Six, and stated that the duty of 30 per cent ad valorem provided for in the specimen tariff for imports from third countries as against duty-free admission of the product from the associated territories, would inevitably result in a stimulus to tobacco growing in the territories to the ultimate detriment of countries such as his own.

Mr. Shaw recalled that when the Federation of Rhodesia and Nyasaland became a political entity it was required to negotiate with contracting parties in order to apply the tariff of the Federation, including the preferences therein, uniformly over the whole area of the Federation. He suggested that the Six should adopt similar procedures. Furthermore, his Government, when endeavouring to implement a customs union agreement with South Africa had gained a good insight into the difficulties of such an association between two countries of widely divergent economic development. If desirable, he would make further information on this point available to the Working Party.

Mr. HAGEN (Sweden) said that he doubted if any other international organization could have provided the forum for such a high level exchange of views that had taken place in this Committee. The discussions themselves had served an extremely useful purpose, but it was clear that much more clarification was required. His delegation held the view that no pronouncement on the compatibility of the provisions of the Treaty with those of the General Agreement could be made until after the institutions described in the Treaty had been established. Meanwhile, he thought it would be profitable to explore in the Working Party the procedures and time-table for the arrangements along the lines suggested by the representative of the United Kingdom.

Mr. PHILIP (France) said that he had been rather surprised to note that, with a few exceptions, the statements made had been more or less a repetition of previous discussions on this subject. He expressed the hope that any further repetition would be avoided in Working Party discussions.

Several contracting parties had referred to a preferential régime which at present existed between France and her overseas territories and in this connexion they had misunderstood the actual situation. There were, in fact, no import duties or taxes levied on importation into France of those types of commodities that are imported from the overseas territories. It was true that the territories themselves levied fiscal duties on certain imports; however, since these duties were levied on imports from all countries, including France, as well as on domestic production, they amounted to internal consumption taxes and as such fell outside of the Committee's terms of reference.

The association of the overseas territories was an integral part of the Rome Treaty and could not be separated therefrom. It would be unthinkable to France that the price of entering the European Economic Community was to be the severance of this relationship. Further, it would be impracticable to maintain the status quo and have a situation where imports from the territories entered France duty-free but were subjected to duties by the other five partners. Indeed, the African territories, now reaching political maturity, had stressed their interest in maintaining the present relationship in order to preserve their export markets in France and other European countries and to continue to derive benefits from France's investment policy.

The Six had maintained that the proposed arrangements fulfilled the conditions for the formation of a free-trade area as prescribed in Article XXIV. In this connexion there were two aspects to be considered; the régime to be maintained by the Member States and that to be maintained by the overseas territories themselves. The former aspect he thought was beyond controversy and he could not understand some of the statements that the arrangements constituted an extension of preferences. As pointed out, there was at present no preferential régime, and it was implicit in Article XXIV that a commitment to eliminate all customs duties by a given time must result in the creation of a preferential area. It was true, as stated during the discussion, that the provisions relating to these arrangements, insofar as the full implementation of the Common Market was concerned, were less precise than those for the customs union, since only the first

stage had so far been formulated. In this regard, however, it was explicit in the Treaty that the fifteen-year transitional period was a maximum limit and by that time the whole of the Common Market would have been set up and fully implemented and duties would not be applicable for imports from the overseas territories. In the light of these considerations, therefore, the CONTRACTING PARTIES must agree that this aspect of the free-trade area was fully in conformity with Article XXIV.

Turning to the other aspect, that of the régime to be maintained by the overseas territories, Mr. Philip stated that there was an obligation in paragraph 2 of Article 133 for them to abolish customs duties among themselves and on imports from Member States. At the request of the territories that there be inserted in the Treaty similar provisions to those contained in Article XVIII of the General Agreement, a certain voluntary element had been introduced in paragraph 3 of Article 133 in order to recognize the special difficulties of their under-developed economies. The determination of any duties pursuant to these provisions was left to the competence of the authorities of the territories themselves in consultation with the planning bodies of the Common Market. Recourse to these provisions would, in fact, be equivalent to similar action taken under Article XVIII of the General Agreement and accordingly the Six, as contracting parties, would be prepared to undertake the necessary consultations and negotiations. It should not be inferred, nevertheless, that the territories would rely on tariff measures alone to solve their particular problems as other means, such as investment or marketing policies, might be more appropriate in some circumstances. In any case, at the most, any duties imposed would only affect 3 per cent of the total volume of the trade of the free-trade area, and duties would therefore be eliminated on at least 97 per cent of the trade between the constituent territories. In this connexion he cited the percentages of trade covered by other arrangements, such as the South Africa - Southern Rhodesia Customs Union, the Central American Free-Trade Area, and the envisaged Nordic Union, which were 70 per cent, 73 - 80 per cent, and 80 per cent respectively.

The Six Member States felt, therefore, that the present arrangements did, in fact, provide for the formation of a free-trade area, and were willing to discuss them within the framework of Article XXIV. There was no question of discussing the conditions on which any waiver would be granted since the Six were not requesting such a waiver from the CONTRACTING PARTIES.

Mr. Philip then turned to several points raised during the discussion. Referring to the statement made by the representative of the United Kingdom, he quoted statistics which compared exports from French and Belgian territories to certain countries with exports to the same countries from the Commonwealth and the dependent territories of the United Kingdom. In the case of each product cited - wheat, sugar, citrus fruits, bananas, coffee and cocoa - the proportion of the market supplied by exports from the French and Belgian territories was either zero or relatively small. The representative of Indonesia had pointed to the differential between the tariffs to be applied for tea, on the one hand,

and coffee on the other. Mr. Philip explained that these rates had been determined according to the arithmetical average and the difference had arisen principally from the present duties for tea in Germany and France of 52 per cent and 30 per cent, and for coffee of 35 per cent and 30 per cent respectively. The representative of Ghana had cited statistics which he said showed that the incidence of the duty for cocoa in the common tariff would be increased. In his calculations, however, he had overlooked the rate of 25 per cent for cocoa, which was bound in France's schedule but which had been suspended in view of the imposition of quantitative restrictions for balance-of-payments reasons.

The representative of Ceylon had stated that since the free-trade was an association of heterogeneous countries, it would result in the establishment of a new preferential system. In this connexion Mr. Philip pointed out that there were no provisions in Article XXIV which required that countries intending to form a free-trade area or customs union should be at the same level of economic development. Mr. Philip referred to the dual legalistic and economic approach that had been adopted by the representative of Brazil and expressed the view that if the Working Party were to adopt this two-fold approach its work could be protracted and, furthermore, there was the danger that widely different and contradictory conclusions would be arrived at.

In conclusion, Mr. Philip reiterated that the association of the overseas territories was an integral part of the European Economic Community. He was conscious of the problems faced by the contracting parties with under-developed economies but he urged them not to hamper prospects of other under-developed countries to improve their position immediately since in the near future this would result in increased opportunities for economic development generally.

Mr. VALLADAO (Brazil) expressed the view that contrary to what had been stated by the representative of France there was no contradiction in the dual legal and economic approach his delegation had adopted to this problem. The Working Party would have to compare the compatibility of the Rome Treaty with the provisions of the General Agreement and the legal aspects could not be divorced from such an examination. In particular his delegation considered the proposals were an infringement of Article I of the GATT. In this connexion his delegation enquired whether the secretariat could prepare a document on the drafting history of Article ., similar to that prepared for Article XXIV in W.12/18.

The CHAIRMAN replied that the secretariat would meet the request of the representative of Brazil insofar as the exigencies of the workload permitted. He then proceeded to sum up the discussion that had taken place. Many contracting parties had stated that they considered that the provisions of the Rome Treaty relating to the association of the overseas territories were inconsistent with the General Agreement. Several speakers had also disputed the contention that the arrangements conformed to the criteria for a free-trade area, as prescribed in Article XXIV, and had stated that the arrangements constituted an extension of preferences, and that a waiver under Article XXV would be necessary. Mr. Philip had refuted these views and therefore it was clear that this question would have to be examined in detail by a working party.

2. Appointment of Sub-Groups

The CHAIRMAN said that the Committee as the co-ordinating body should now appoint sub-groups to deal in detail with the various aspects of the Rome Treaty and thus facilitate their examination by the CONTRACTING PARTIES. While it would be the responsibility of the chairman of each sub-group to ensure that no overlapping occurred, it appeared that questions pertaining to tea, coffee and cocoa, for example, would be relevant to several of the aspects of the Treaty to be examined and, therefore, some latitude would have to be granted to enable interested contracting parties to present their problems to the different sub-groups concerned. The Chairman expressed the hope that the sub-groups could arrive at mutually satisfactory solutions for all concerned.

The Chairman then invited Members of the Committee to advise the secretariat of any further relevant points they might wish to bring up concerning the provisions of the Rome Treaty and these could be discussed at a later meeting of the Committee. Meanwhile, he proposed that four sub-groups be established to examine those aspects that had already been considered. In proposing the composition of the sub-groups the Chairman explained that any interested contracting party could attend the meetings of each sub-group as an observer and be co-opted upon request. The Interim Committee of the European Economic Community would be associated with the work of the sub-groups.

The Committee approved the establishment of four sub-groups with the following chairmen and membership:

Sub-Group A - Plan and Schedule, and Tariffs

CHAIRMAN: Dr. E. Treu (Austria)

<u>Members:</u>	Canada	Czechoslovakia	Sweden
	Shile	India	United Kingdom
	Cuba	Japan	United States
		Norway	

and two of the Six Member States

Sub-Group B - Quantitative Restrictions

CHAIRMAN: Mr. R. Monserrat (Cuba)

<u>Members:</u>	Australia	Canada	United Kingdom
	Brazil	Japan	United States
	Burma	Peru	

and two of the Six Member States

Sub-Group C - Trade in Agricultural Products

CHAIRMAN: Mr. S. Osman Ali (Pakistan)

<u>Members:</u>	Australia	Indonesia	United Kingdom
	Cuba	New Zealand	United States
	Denmark	South Africa	Uruguay
		Turkey	

and two of the Six Member States

