

GENERAL AGREEMENT ON  
TARIFFS AND TRADE

RESTRICTED

L/1151  
29 February 1960

Limited Distribution

---

EUROPEAN FREE TRADE ASSOCIATION

Questions Submitted to the Participating  
Governments

Under the procedures agreed upon by the CONTRACTING PARTIES at their fifteenth session (SR.15/17), contracting parties were invited to send to the Executive Secretary the questions they wished to put to the signatories to the Convention establishing the European Free Trade Association concerning the provisions of the Convention and its implementation. From the communications received the following consolidated list of questions has been prepared and has been transmitted to the Governments concerned.

I. THE ESTABLISHMENT OF THE FREE TRADE ASSOCIATION  
AND OBJECTIVES

(Articles 1 and 2)

Article 1

Question 1

Do the Member States propose that the Association be considered as the kind of free-trade area covered by Article XXIV of the GATT?

Question 2

Do the Member States consider that the Convention constitutes an "interim agreement" with a view to the formation of a free-trade area or an agreement establishing such an area?

Question 3

The Convention does not provide for the elimination of tariffs, quotas and other barriers to trade in significant economic sectors, i.e. agricultural goods, fish, most other marine products listed in Annexes D and E, respectively.

- (a) How do the Member States reconcile these arrangements with Article XXIV of the GATT?
- (b) If the Member States do not consider that these arrangements conform with Article XXIV, how do they plan to deal in GATT with this aspect of the Convention? In particular, what justification is there for this deviation from the provisions of Article I of the GATT?

Question 4

On what percentage of the trade between the Member States in products originating in their territories will duties be eliminated? (See also question 57.)

Question 5

Would the Member States indicate how the percentage stated in answer to the preceding question is arrived at, indicating whether account has been taken of the removal of duties on agricultural products where the bilateral agreements referred to in Article 23 provide for the elimination of customs duties on some agricultural goods?

Question 6

Having regard to the fact that not all Member States are parties to the GATT, is it the intention of the Member States to request the CONTRACTING PARTIES to approve the formation of the free-trade area in accordance with the provisions of Article XXIV:10 of the GATT?

Question 7

Does acceptance of the Convention entail, for the Member States which are not parties to the GATT, any obligations toward third countries similar to those arising out of Article XXIV of the GATT for other members of the Association?

Question 8

The provisions of the Convention establishing a free-trade area will be implemented at the end of a ten-year period. Would the Member States agree to keep the CONTRACTING PARTIES informed in advance of all important developments and afford an opportunity for discussions of any pertinent issues before final decisions are taken by the institutions of the Association?

Article 2Question 9

In the communiqué issued at Stockholm, 20 November 1959, the Member States declared that the Association is a further expression of the post-war drive toward lower trade barriers, and reflects the principles which have been established by the GATT. Further, Article 2 of the Convention stipulates that one of the objectives of the Association is "to contribute to the harmonious development and expansion of world trade and to the progressive removal of barriers to it."

- (a) What are the measures the Member States intend to take for the fulfilment of the above principles and objective of the Association?
- (b) In particular, what practical measures are contemplated by the Member States for the reduction of customs duties vis-à-vis third countries, apart from establishing a standstill on the increase thereof in accordance with Article XXIV:5(b)?
- (c) In proceeding with liberalization of trade vis-à-vis third countries, will the Member States act in a manner consistent with the general principles of non-discriminatory treatment prescribed in the GATT?

Question 10

How is it proposed to attain the objective, referred to in Article 2(c), of avoiding significant disparity in the conditions of supply of raw materials?

II. IMPORT DUTIES  
(Article 3)

Question 11

This Article provides that Member States shall not apply any import duties between themselves on and after 1 January 1970. Article 20, paragraphs 1 and 5, however, envisage the use of certain "measures" in addition to quantitative restrictions in case of difficulties in particular sectors. There is also provision for eventual postponement in reductions of duties.

- (a) Is there a danger that even if Member States achieve the target date set in the Article, the elimination of internal tariffs for a number of tariff items could be postponed even beyond the transitional period?
- (b) Having regard to Article 6, what revenue duties and taxes of equivalent effect are at present effective in Member States and what part of each will not be subject to the rule regarding the elimination of customs duties between members?

Article 3(1)

Question 12

Would the Member States supply all available information concerning "other charges with equivalent effect", indicating those which are actually in force in the Member States?

Article 3(3)

Question 13

Would the Member States show how to determine a basic duty for a product to which different rates of duty are applicable by means of a tariff quota?

Annex A

Question 14

- (a) Annex A, paragraph 1

Would the Member States explain fully the meaning of the second and third sentences and give relevant examples?

- (b) Annex A, paragraph 2(c)

Would the Member States supply all available information about the lists which have been notified by the Member States in accordance with this paragraph?

(c) Annex A, paragraph 8

This paragraph appears to permit the Council to authorize any Member State to adopt any rate of duty as the basic duty for any product:

- (a) Why is such a provision necessary?
- (b) What would be the probable effect of action by the Council under this provision?

(d) Annex A, paragraph 9

Is it the intent of this paragraph that Member States will remain free, in their trade with non-member States, to maintain the customs duties which they applied to such trade prior to the entry into force of the Convention if the provisions of Article XXIV:5(b) of the GATT so require?

III. AREA TARIFF TREATMENT

(Article 4)

Question 15

This Article provides that goods shall be subject to area tariff treatment under three basic conditions. How will these be administered so as to ensure that the present terms of access of imports from outside countries will not be adversely affected and that the origin rules will not raise barriers to the use of non-member countries' materials in more processed goods for re-export to the other members?

Question 16

Although the rules of origin have been worked out and described in considerable detail by the Member States, the actual operation of the rules and any consequent effects on the trade of outside countries are matters which will become more clearly delineated in the future. In particular, the process rules are highly technical and difficult fully to evaluate from the viewpoint of outside countries. Would the CONTRACTING PARTIES be correct in assuming that the Member States will accordingly give sympathetic consideration to detailed representations which other contracting parties may wish to make, with a view to averting or correcting adverse effects on the trade of outside countries arising from the operation of the origin rules? Assurances from the Member States on this point would be welcomed.

Question 17

Under the rules for determining goods eligible for area tariff treatment, products originating in countries outside the area to which preferential tariff treatment is accorded by a Member State are eligible for area tariff treatment when they have been subjected to a certain amount of processing within the area.

- (a) Will the Member States apply the provisions of the interpretative note to paragraph 9 of Article XXIV in Annex I to the GATT within the framework of the rules on origin laid down in paragraphs 1 and 2 of Article 4?
- (b) If not, is it the intention of the Member States to apply such differential rates of duty in the event that the rules on origin are made more liberal as a result of the application of paragraphs 3, 5 and 6 of Article 4?
- (c) How will the Member States apply the provisions of the interpretative note should the occasion arise?

Article 4(1)

Question 18

Why is the "percentage rule" not applicable to goods listed in Schedule II which is concerned mainly with textiles and clothing?

Article 4(3)

Question 19

- (a) Do the words "any goods" include imported goods which are not of area origin?
- (b) If so, do the Member States intend to take necessary measures so that the application of the provisions of this paragraph would not be arbitrary and discriminatory to third countries?

Article 4(6)

Question 20

- (a) Are the amendments foreseen in this paragraph only designed to make the rules simpler and more liberal? Or could the rules be amended so as to ensure "the smooth operation" in a restrictive direction?
- (b) Would the rules be amended in a restrictive direction to correct so-called problems of deflection of trade?

IV. DEFLECTION OF TRADE

(Article 5)

Question 21

Will a determination as to whether trade is being deflected, within the meaning of this Article, be based on the trade situation existing prior to the adoption of the Treaty, or will any subsequent changes be taken into account?

Question 22

- (a) Do the measures provided for in this Article concern deflections of trade arising out of disparities between the quantitative restrictions imposed by two or more members towards States outside the area?
- (b) If not, does the Convention provide for measures directed towards the elimination of such deflections of trade, and what are these measures?
- (c) If the Convention does not provide for any such measures, is the Council empowered under paragraph 7 to take such measures after amending Article 5?

Question 23

In a case where deflection of trade is caused by a difference in the level of duties or charges on goods not eligible for area tariff treatment, what measures will be taken by the Member States in order to remedy the situation?

Question 24

What do Member States intend to do to avoid frequent resort to the provisions of Article 5 and to maintain the stability of their external tariffs? Is there a danger that these provisions would become at the same time a factor inhibiting reductions in external tariffs and contributing to increases in external tariffs with the danger of an unravelling of the GATT schedules?

Question 25

In case of decisions bearing on terms of access for outside countries, do Member States intend to enter into prior consultations with the outside countries likely to be affected?

Article 5(1)

Question 26

What criteria will be used to determine when injury has occurred or will take place?

Article 5(2)

Question 27

Is the Council, under the terms of this paragraph, empowered to take preventive measures, or is it empowered to take action only after it has been determined that trade is being deflected within the meaning of paragraph 1?

Question 28

This paragraph authorizes the Council to deal with causes of trade deflection by amending the rules of origin in accordance with paragraph 5 of Article 4 or "by such other means as it may consider appropriate".

- (a) What are the "other means" that the Council might employ to give effect to this broad language?
- (b) If Member States are considering tariff harmonization as a means of dealing with trade deflection, would they be willing to undertake harmonization towards the lowest rather than the highest duty?
- (c) In the absence of an amendment to the rules on origin, is the Council empowered, under the terms of this paragraph, to take measures of tariff harmonization in respect of raw materials or intermediate products which are not accorded area tariff treatment and which enter into the manufacture of a product, trade in which is being deflected?
- (d) If so, by what means will the measures of harmonization be so implemented as to be consistent with the provisions of the GATT?
- (e) If not, would it nevertheless be permissible for the Council to take such measures, under paragraph 7, after having amended the provisions of Article 5?
- (f) Would the Member States give an assurance that quantitative restrictions will not be used to combat trade deflection?

Article 5(3)

Question 29

What measures do the Member States envisage may be authorized as "interim measures", in order to safeguard the position of the Member State in question?

Question 30

If even as an interim measure an increase in bound duties is recommended and implemented, when and how do the Member States propose to comply with the provisions of Article XXVIII of the GATT, applicable in cases of withdrawal or modification of concessions?

Question 31

Assuming that under paragraphs 2 and 3 a Member State may be asked to modify its duties to deal with causes of deflections of trade, is it envisaged that the tariff adjustments can be made through either increased or reduced duties vis-à-vis third countries?

Question 32

It is noted from paragraph 3 that interim measures to safeguard a country against the effects of deflections of trade may be taken by the country affected but shall not continue for longer than two months with an additional two months in exceptional circumstances.

- (a) If the situation which gave rise to the need for the safeguarding measures still continues at the end of this period, what is the nature of the measures that would be contemplated in such circumstances?
- (b) What measures are contemplated to avoid deflections of trade adversely affecting non-members?

Article 5(4)(5)

Question 33

In paragraph 4, Member States are required to notify the Council prior to any reduction in their external tariffs and must take into account representations made by other Member States.

- (a) By what means is it envisaged that this procedure, as well as those in paragraphs 2 and 3, will be so administered as to ensure that Member States will be free to reduce barriers to trade and participate actively and meaningfully in tariff negotiations, including the new general round of negotiations to be held in 1960-61?
- (b) In what way do the Member States intend to fulfil the obligations under this paragraph in the course of the new round of tariff negotiations in 1960-61?

Question 34

- (a) Under the Article 31 procedures, applicable to cases of trade deflection resulting from a tariff reduction by a Member State towards countries outside the area after the Convention has entered into force, is the Council empowered to recommend that the Member State should reinstate the former rate of duty for an indefinite period?
- (b) If so, will the Member State be deemed to be defaulting in respect of an obligation arising out of the Convention if it does not carry out the Council's recommendation, and would it be possible for the Council, under paragraph 4 of Article 31, to authorize another Member State to take certain retaliatory measures?

Article 5(7)

Question 35

- (a) In view of the decisive importance which decisions taken by the Council under the terms of this paragraph might have with regard to the legal status of the Association, is it the intention of the Member States to notify the CONTRACTING PARTIES of any decision involving a substantial amendment of Article 5?
- (b) Will the CONTRACTING PARTIES be given an opportunity to examine amendments proposed to Article 5 before their final submission to the Council?

V. REVENUE DUTIES AND INTERNAL TAXATION

(Article 6)

Question 36

- (a) What is meant by the term "effective protective element" in paragraph 3?
- (b) When the "effective protective element" in internal taxes or other charges is eliminated, is it intended that similar taxes or charges will be eliminated at the same time for imports from non-member countries?

Question 37

- (a) Does this Article envisage the retention of certain revenue duties on imports from other Member States?
- (b) If so, is it intended that goods from Member States and from outside countries will be accorded equal treatment with respect to revenue duties?
- (c) If this Article does envisage the retention of certain revenue duties on imports from other Member States, what is thought to be the relationship between this Article and the requirements of Article XXIV:8 of the GATT?

Question 38

Assuming that a customs duty on a given product did not include any protective element, direct or indirect, by reason of the fact that there was no domestic production of like goods or of similar goods from a competitive point of view, would such duty be regarded as a purely fiscal duty and would such duty fall fully outside the scope of the rules of paragraph 3(b)?

Question 39

In view of the obligation under Article XXIV:7 of the GATT, are the Member States prepared to furnish the CONTRACTING PARTIES with all information which they are to notify to the Council in accordance with paragraphs 3(c), 4 and 5 of this Article?

Question 40

Could the Member States give some indication of the volume of trade covered by the revenue duties now in force?

VI. DRAWBACK

(Article 7)

Question 41

In circumstances where a Member State has to remove its drawbacks in order to qualify for area tariff treatment, would Member States endeavour to continue giving drawbacks on materials used in the production of goods exported to third countries?

VII. PROHIBITION OF EXPORT DUTIES

(Article 8)

Article 8(1)

Question 42

Could a full account of export duties which are actually in force in the Member States be provided?

VIII. QUANTITATIVE IMPORT RESTRICTIONS

(Article 10)

Question 43

Do the provisions of this Article apply to quantitative restrictions maintained by a Member State on 1 July 1960 for the purpose of safeguarding its balance of payments?

Question 44

What protection could a Member State expect from the Convention against deflections of trade resulting from the fact that the Member State concerned was maintaining quantitative restrictions towards countries outside the area, while applying the provisions of this Article to other Member States only?

Question 45

This Article requires Member States to remove progressively all their quantitative import restrictions as soon as possible and not later than 31 December 1969. The GATT provides that a contracting party applying quantitative restrictions must relax them with an improvement in its balance-of-payments position. Further, it has been recognized by the IMF and the GATT that there is no longer any balance-of-payments justification for discrimination by members whose current receipts are largely in externally convertible currencies, and that it should be eliminated in a short period of time.

- (a) It is assumed that the removal of quantitative restrictions will in no way detract from the obligation of individual member countries under the balance-of-payments provisions of the GATT; contracting parties would welcome assurances to that effect.
- (b) Does paragraph 2 of this Article envisage that quantitative restrictions imposed for balance-of-payments reasons would be eliminated earlier than would be necessary in order to conform with the other international obligations of the Member States?
- (c) Do the obligations under this Article mean that the removal of restrictions against Member States could conceivably be effected without similar treatment being accorded to non-member countries?

- (d) Similarly, do the obligations under this Article mean that for a Member State experiencing an improvement in its balance-of-payments position, progress in the removal of restrictions against third countries would tend to be slowed down?
- (e) What is proposed for the elimination or relaxation of restrictions on imports from third countries to comply with the Decision by the Fund on discrimination as confirmed by the CONTRACTING PARTIES?
- (f) Will the implementation of Article 10 result in an intensification of discrimination against non-members?

Question 46

Do the Member States now impose any "restrictive regulations of commerce" other than customs duties and those permitted by Articles XI, XII, XIII, XIV, XV and XX of the GATT, such as restrictions maintained in accordance with the Protocol of Provisional Application of the GATT? Are such restrictions on products covered by the Convention to be eliminated in accordance with paragraph 2 of Article 10? If so, is it intended that such restrictions be eliminated in the case of imports from other contracting parties to the GATT as well as from Member States?

Article 10(5 - 7)

Question 47

- (a) Will Member States be free, after 1 July 1960, to establish global quotas available to Member States and to non-member countries alike?
- (b) Is it necessary that a distinction should be made between imports from Member States and imports from non-member countries in the administration of any global quotas which may be established?
- (c) Would it be correct to interpret the provisions of paragraphs 5 to 7 as meaning that some global quotas, as defined in paragraph 11(c), will not be open to outside countries? If this is correct how do the Member States reconcile such a situation with the provisions of GATT and Article 37 of the Convention?
- (d) Will the global quotas which are open also to non-member countries, including the 20 per cent annual increases, be applied on an entirely non-discriminatory basis as between Members and non-member countries, so that the non-member countries can compete for a share in the quotas, including the increases, on an equal basis with Members?
- (e) Will the new global quotas envisaged in paragraph 5 be open to non-member countries which are contracting parties to GATT?
- (f) Will the quantities added to the basic quotas on the basis of past imports from certain non-member countries be open to all non-member countries contracting parties to GATT?
- (g) In the case of global quotas which are open to non-member countries, could a list be furnished showing for each Member State, which outside countries can compete for a share of each quota at present in force?

- (h) What are the products covered by the Convention in respect of which global quotas are not at present open to all contracting parties to GATT? In the case of such products, which are the contracting parties to which those global quotas are not open?
- (i) What policies will be followed by Member States in order to assure that the annual increases in quotas open to Members only will not result in the creation of preferential quota positions for Member States as compared with countries which are not Members?

Question 48

A Member State experiencing some balance-of-payments difficulties might find it possible to increase its quotas in accordance with Article 10 for Member States without too great a strain on its reserves, while considering that its balance-of-payments was too precarious to permit a simultaneous increase in its quotas open to non-members. What would be the appropriate conduct for the Member States in these circumstances in the light of the Convention, assuming that the Member State is a contracting party to GATT or a Member of the IMF?

Article 10(6)

Question 49

What criteria will be used in establishing the quotas "of appropriate size" which are to be substituted on 1 July 1960 for quotas which are nil or negligible?

Question 50

This paragraph might be regarded as corresponding to the provisions of Article 33, paragraph 2 of the Rome Treaty. Are the Member States considering setting up an initial quota of the same size as that provided in the Rome Treaty (3 per cent)?

Question 51

Will quotas established under this paragraph and increased in terms of paragraph 7 be applied in a non-discriminatory manner to non-member States?

Question 52

What measures of liberalization do the Member States intend to take for the products which have not been liberalized to third countries?

Article 10(8)

Question 53

This paragraph provides that Member States may propose and the Council may authorize "alternative arrangements" if the application of this Article to a particular product would cause "serious difficulties".

- (a) What criteria are contemplated for determining the existence of "serious difficulties"?

- (b) What types of "alternative arrangements" are envisaged?
- (c) Will this paragraph continue to apply after the end of the transitional period?

Article 10(10)

Question 54

Is the Council empowered under this paragraph to extend the date-line of 31 December 1969, laid down in paragraph 2 for the elimination of quantitative restrictions?

Article 10(11)

Question 55

Do the definitions contained in paragraph 11 (b) and (c) mean that global quotas will continue to be open only to those non-members to whom those global quotas were open in the calendar year 1959?

IX. QUANTITATIVE EXPORT RESTRICTIONS

(Article 11)

Article 11(2)

Question 56

Would the Member States give examples of export restrictions which are actually applied to exports to territories outside the area of the Association?

X. GOVERNMENT AIDS

(Article 13)

Question 57

In view of the objective set out in Article 2(d) will the prohibition on the Government aids described in paragraphs 1(a) and 1(b) of this Article also apply to exports to non-member countries?

XI. RESTRICTIVE BUSINESS PRACTICES

(Article 15)

Question 58

How is it intended that the Council would deal with restrictive business practices within the areas that affect the trade of third countries with Member States?

XII. BALANCE-OF-PAYMENTS DIFFICULTIES

(Article 19)

Question 59

Will the Member States apply Article 10 and not Article 19, so long as they maintain the present levels of international balance of payments?

Question 60

Would it be permissible for a Member State, under the terms of this Article to reintroduce quantitative restrictions which had been eliminated only in respect of Member States under Article 10, if the Member State concerned felt that a deterioration in its balance-of-payments situation was attributable to measures which it had had to take under the Convention?

Article 19(1)

Question 61

- (a) Do the provisions of paragraph 1 mean that a Member State in such circumstances will impose non-discriminatory quantitative restrictions which will apply equally to Members as well as non-member countries, and will not make a distinction between the treatment of imports from third countries and those from the Member countries?
- (b) Do the provisions of this paragraph mean that a Member State in balance-of-payments difficulties may be granted a waiver of its obligations under Article 10 to increase the size of its quotas during the transitional period?
- (c) With an improvement in their balance-of-payments position will individual Member countries remove their import restrictions in a non-discriminatory manner so that outside countries will not be subject to more severe import restrictions than Member States?

Article 19(2):

Question 62

- (a) What kind of "recommendations" or "special procedures" are envisaged?
- (b) Is it envisaged that these "recommendations" and "special procedures" might result in discrimination against outside countries, or in the intensification of any discrimination that might have existed?
- (c) Can it be assumed that the "recommendations" and "special procedures" will not include the imposition of or the intensification of quantitative restrictions on imports from outside countries on the part of other Member States which are not experiencing balance-of-payments difficulties?
- (d) If, as is envisaged in this paragraph, compensation may be made for the effect of such measures taken for balance-of-payments purposes, will non-member countries share in such compensation?

Article 19(3)

Question 63

- (a) How do the Member States relate these provisions to the requirements of the GATT regarding consultations on the application of import restrictions for balance-of-payments purposes? (It will be recalled that under the GATT, CONTRACTING PARTIES may suggest alternative arrangements likely to cause less damage to the trade of other contracting parties.)
- (b) Can it be assumed that the Member States in view of their other international commitments will comply with their obligations, including where appropriate the provisions of Article XII and XIII of the GATT, in the removal of these restrictions?

XIII. DIFFICULTIES IN PARTICULAR SECTORS

(Article 20)

Question 64

- (a) How would restrictions imposed under this Article be justified under the GATT?
- (b) In view of the fact that the difficulties envisaged in this Article are likely to arise as a result of the operation of the Convention, is it intended that the restrictions shall apply only against the exports of Member States? If not, how would restrictions against non-member States be justified under the GATT?
- (c) If this provision should become applicable for a product subject to quotas to which non-members have access, would the quantitative restrictions also apply to imports from non-member States and, if so, would imports from such non-members be accorded "like treatment"?
- (d) What kind of measures are contemplated in paragraph 1(ii)?

- (e) Will it be up to the Member States to determine the nature and the cause of the difficulty, how serious it is and how long the use of quantitative restrictions or any other measure is justified? Is there an ultimate time-limit for the application of the measure?
- (f) What types of Council recommendations are envisaged under paragraph 3 of this Article?

Question 65

- (a) Under paragraph 5 what are the Council's intentions regarding the application of "similar" provisions after the end of the transitional period when the "progressive elimination of duties, charges and quantitative restrictions" should no longer be a factor?
- (b) In particular, for what period of time is it contemplated that such an extension beyond the transition period would be necessary?
- (c) Is the Council empowered, under paragraph 1 or pursuant to a Council decision under paragraph 5, to authorize a Member State to apply, after 31 December 1969, quantitative restrictions or customs duties towards other Member States? If so, how do the Member States propose to reconcile this possibility with the provisions of Article XXIV of the GATT, in the event that the difficulties referred to in paragraph 1 were to affect a substantial part of the economy of the Member State concerned?

Question 66

What safeguards, if any, exist against action being taken under this Article which would prevent the formation of a free-trade area at the end of the transition period?

XIV. AGRICULTURE AND FISHERIES

(Articles 21 to 28)

Question 67

How large is the volume of trade in agricultural and fisheries products in the free-trade area as a whole? How large is the volume of these exchanges in the trade of each of the Member States with the other countries of the area considered as a whole and individually?

Question 68

In view of the interests of contracting parties in the trade in agricultural and fisheries products, what provisions are envisaged to provide the CONTRACTING PARTIES with an opportunity for prior examination of any changes envisaged in Articles 21, 25, 26 and 28?

Article 21

Question 69

Would the Member States define more accurately the meaning of the words "special considerations" which appear in paragraph 1?

Question 70

- (a) Is the Council empowered, under paragraph 1 of Article 21, to add further products to Annex D, whereas Article 26 does not permit such additions to Annex E?
- (b) If so, would the Member States consult with the CONTRACTING PARTIES before adding items to Annex D?

Article 22

Question 71

- (a) Does the requirement of paragraph 1 that Member States shall have due regard to the traditional channels of trade in their agricultural policies extend to trade with countries outside the area?
- (b) What is the meaning of the provision of paragraph 2 to the effect that "reasonable reciprocity" will be provided to countries which are exporters of agricultural products? For instance, could a Member State request that a bilateral agreement already entered into should be reviewed in order to maintain "reasonable reciprocity" in trade in industrial and agricultural products?
- (c) Will the opportunities for the expansion of trade in agricultural products be applied equally to non-member countries?

Question 72

Does the word "recognize" in paragraph 1 of this Article imply that the Member States accept that their present agricultural policies promote rational and economic development of production?

Question 73

Does this Article imply that Member States see no scope for modifying their agricultural policies in such a way as to create opportunities for further development of the trade of third countries in agricultural products?

Article 23

Question 74

- (a) What is the nature of the agreements envisaged in this Article?
- (b) This Article states that certain Member States have already concluded bilateral agreements among themselves. What agreements have been concluded and what is the nature of these agreements? What further agreements are envisaged and what will be the nature of these arrangements.
- (c) What are the products in respect of which customs duties are to be eliminated under these agreements?
- (d) What measures other than the elimination of customs duties are provided for in these agreements? Will any such measures be applied equally by each Member State to all other Member States?

Question 75

According to paragraph 2 of this Article the agreements on agricultural products are to remain in force during the life of the Convention. Will this not bring about discrimination against third countries?

Question 76

Does paragraph 3 mean that a Member State which has granted tariff concessions within the framework of a bilateral agreement is not authorized to modify duties applicable to the products in question when imported from countries outside the area without the consent of all Member States, if such modification affects the tariff preferences resulting from such bilateral agreements?

Question 77

What would be the fate of a bilateral agreement if one of the partners withdrew from the Association?

Question 78

Since agriculture is not covered by the provisions of Articles 1 to 20 except Articles 1 and 17, will the Association give an assurance that any agreements which may be concluded in terms of Article 23 will be in conformity with the provisions of GATT?

Question 79

It follows from the bilateral agreements now in force and from the wording of paragraphs 2 and 3 of Article 23 that the concessions which have been negotiated are not reciprocal and do not, in certain cases, lead to the elimination on 1 January 1970 of all obstacles to trade, and that the non-tariff concessions involve discrimination between Member States. In these circumstances, on what provisions of the GATT is the exclusion from the most-favoured-nation treatment based?

Question 80

Are agreements under this Article to be regarded as an integral part of the Association arrangements for the purposes of the consideration of the arrangements by the CONTRACTING PARTIES to the GATT?

Question 81

Will the Member States undertake to submit to the CONTRACTING PARTIES, pursuant to Article XXIV:7 of the GATT, any bilateral agreements which have been, or may be in the future, concluded between Member States under Article 23?

Article 24

Question 82

This Article is directed to the reduction of export subsidies on agricultural goods but it refers only to trade between the Member States. Is it the intention of the Association at the same time to reduce and eventually eliminate subsidies on agricultural goods exported to markets outside the Member States?

Question 83

What is the difference between Article 24 and Article XVI of the GATT dealing with export subsidies?

Article 28

Question 84

Would the Member States provide information about the arrangements relating to trade between Member States in fish and other marine products?

Annex D

Question 85

- (a) Why do live animals and products derived from live animals come under Rule 2 of Annex B, whereas by virtue of Annex D such products are not covered by Article 4?
- (b) Are canned goods included in the meaning of "preparations" as listed in Chapter 20 of Annex D?

XV. GENERAL CONSULTATIONS AND COMPLAINTS PROCEDURE

(Article 31)

Question 86

Under this Article, the Council may authorize a Member State to suspend its obligations under the Convention to such an extent and for such a period as the Council considers appropriate. Could that mean that a Member State, after the first tariff cuts, could be permitted to maintain that level for an indefinite period? What safeguard is there to ensure that a Member State will not merely establish preferential tariffs under the provisions of the Convention?

Question 87

Will it be possible for the Council, under paragraph 4, to authorize one or more Member States to reintroduce customs duties or quantitative restrictions in respect of a State defaulting on its obligations, even after 1 January 1970?

XVI. OBLIGATIONS UNDER OTHER INTERNATIONAL AGREEMENTS

(Article 37)

Question 88

Does this Article mean that international obligations undertaken by Member States will prevail in each and every case over the provisions of the Convention to the extent that such obligations concern countries outside the area?

Question 89

- (a) Will GATT obligations continue to apply as between Member States as well as vis-à-vis outside countries? Also does this Article mean that a Member State may not apply a provision of the Convention to another Member State where the application of the provision is contrary to an international obligation undertaken toward such Member State.
- (b) In particular, will it be possible for a Member State to apply quantitative restrictions to another Member State, either of its own initiative or with the authorization of the Council under Article 5, 20 or 31, if the Member State in question is no longer authorized to maintain such restrictions under the GATT?
- (c) In cases where the Convention provides that the institutions of the Association have discretionary powers with respect to matters on which provisions of the GATT or the IMF apply (e.g., restrictions), is it the case that any decisions taken by the institutions will be notified to the CONTRACTING PARTIES and subject to the provisions, requirements and procedures of these international agreements?

Question 90

Does this Article mean that the Member States which are contracting parties to the GATT will apply to all contracting parties:

- (a) the measures in respect to quantitative restrictions which are provided for in Article 10 of the Convention?
- (b) the measures which are provided for in Article 11 of the Convention?

Question 91

Does this Article apply to bilateral agreements between a Member State and a State outside the area?

XVII. ACCESSION, ASSOCIATION AND TERRITORIAL APPLICATION

(Articles 41 to 43)

Question 92

Would the CONTRACTING PARTIES be correct in assuming that the terms and conditions for any accession or association will be communicated to the CONTRACTING PARTIES prior to their final approval by the institutions of the Associations?

Article 41(1)

Question 93

What do the Member States intend to include in the "terms and conditions" referred to in this paragraph?

Article 41(2)

Question 94

Do the Member States foresee any special form of partial association of third countries? What form would such association take, and with which countries?

Question 95

What kind of agreements are contemplated (e.g., with EEC or OECC) and how would the Member States intend to ensure that they will conform with the most-favoured-nation principle?

Article 42

Question 96

Would the withdrawal of a Member State involve termination of all measures taken under the Convention and governing the trade relations of that Member State with the other Member States?

Article 43(4)

Question 97

What do the Member States intend to include in the "terms and conditions" referred to in this paragraph?

XVIII. ANNEX G - PORTUGAL

Question 98

- (a) What is meant by the phrase as used in this Annex "Portuguese territory covered by the Convention", and what Portuguese overseas territories, if any, are covered by the Convention?
- (b) What criteria were considered in establishing an exceptional transition period for Portugal?
- (c) Will the list of products falling under Article 3, paragraph 2, be made available to the CONTRACTING PARTIES? Also, those products notified to the Council under paragraph 3(b) of Annex G?
- (d) Do the Member States consider that the absence of a plan and schedule for tariff reductions for the period 1 January 1970 to 31 December 1979 can be reconciled with the requirement in Article XXIV:5(c) of the GATT?
- (e) What commitment are the Member States prepared to give with respect to the treatment of outside countries as concerns those duties which are increased for development purposes under paragraph 6 of this Annex, e.g., equal treatment to Member States and outside countries?
- (f) What is the relationship between paragraph 7, permitting Portugal to impose quantitative export restrictions, and the requirements of Article XXIV:8(b) of the GATT?

XIX. MISCELLANEOUS QUESTIONS

Question 99

Do the Member States envisage that, subject to the considerations relating to deflections of trade, the Convention will in no way limit their ability to enter into negotiations for tariff concessions and to participate in any general round of negotiations arranged by the CONTRACTING PARTIES?

Question 100

How are the proposals for a Nordic Customs Union affected by the formation of the European Free Trade Association?

Question 101

In addition to the cases already mentioned, the Convention confers upon the Council certain powers under which the Council could decide to make substantial amendments to the Convention as now submitted to the GATT. Is it the intention of the Member States to submit such decisions to the CONTRACTING PARTIES?

Question 102

Will the Member States be able, independently and without the consent of other Member States, to negotiate and conclude arrangements with third countries assuring the development of trade and granting mutually equivalent advantages?

Question 103

Do the Member States foresee the possibility of negotiating tariff quotas which would make it possible to maintain at least the actual exchange of goods with third countries without discrimination?

Question 104

Do the Member States intend to grant special privileges or exemptions to some Member States? If so, how do they intend to bring them into conformity with the most-favoured-nation principle?

Question 105

Do the Member States envisage that a Member State might be granted special exemptions from the obligations of the Convention concerning the removal of tariffs, the elimination of quantitative restrictions, the maintenance of duty-free treatment or an extension of the time-limit for the elimination of all customs duties? If so, how would such exemptions be in conformity with the most-favoured-nation treatment?

Question 106

Do the Member States intend to co-ordinate their commercial policies by a harmonization of their respective legislation concerning e.g., customs valuation, anti-dumping legislation and the more important differences in tariff rates?