

SERVICE LINGUISTIQUE

GENERAL AGREEMENT ON  
TARIFFS AND TRADE

RESTRICTED.  
L/1177/Add.1  
5 May 1960  
Limited Distribution

LATIN AMERICAN FREE TRADE AREA

Questions submitted to the Participating Governments

Addendum

Document L/1177 contained questions concerning the provisions of the Montevideo Treaty (L/1157) and its implementation which contracting parties had forwarded to the Executive Secretary and which the Executive Secretary had transmitted to the signatory governments as a consolidated questionnaire.

The further questionnaire referred to in document L/1177 has now been prepared and is attached; it has also been transmitted to the signatory governments. The numbering of the attached questions follows on from the numbering of the questions contained in document L/1177.

I. THE ESTABLISHMENT OF THE FREE TRADE AREA

(Article 1)

Article 1

Question 127

Having regard to Articles 15, 54 and 61 and to the seventh paragraph of the Preamble to the Montevideo Treaty, is it the opinion of the Member States that the Treaty may be considered as constituting an "interim agreement" with a view to the formation of a customs union?

II. PROGRAMME FOR TRADE LIBERALIZATION

(Articles 2-13)

Question 128

- (a) Are any duties, charges or restrictions in respect of exports imposed by Member States?
- (b) If so, how do Member States intend to reduce and finally eliminate such duties and restrictions?
- (c) Can such duties, charges and restrictions be maintained or be introduced as between Member States in respect of goods listed in the Common Schedule?

Article 2

Question 129

Is it intended under this Article that the period within which the free-trade area is to be brought into full operation may in no case exceed twelve years from the date of the Treaty's entry into force?

Articles 3-8

Question 130

Is it intended that for new intra-area trade, negotiations on the lines of Articles 4, 5, 6 and 7 will take place after the twelve-year transitional period? (Article 13 also refers).

Question 131

Would the Member States give a full explanation of the methods and processes proposed for drawing up the National Schedules and the Common Schedule?

Question 132

The second paragraph of Article 8, which refers to "products which appear only in the National Schedules", gives the impression that products can appear in both a National and the Common Schedule at the same time. Is this correct?

Question 133

- (a) Is the Common Schedule made up of items which appear in all the National Schedules?
- (b) Is it the intention that the products listed in National Schedules will have been entirely transferred to the Common Schedule at the end of the four three-year periods?

Question 134

Could the Member States undertake to make available to the CONTRACTING PARTIES to the GATT all National Schedules and Common Schedules as and when they are compiled, together with information about any measures taken concerning them?

Article 3Question 135

- (a) Does the phrase "such duties, charges and restrictions" in the first paragraph of this Article cover multiple exchange practices?
- (b) Is it to be inferred that, in the case of a country in which a multiple exchange system is practised, the exchange differentials would have to be eliminated and a single rate system adopted?
- (c) If so, would the Member State concerned be free to continue to apply a multiple exchange system in respect of countries outside the Area?

Question 136

- (a) What are the "fees and similar charges" referred to in the third paragraph of this Article?
- (b) What are the "services" to which this provision is applicable?

Article 4Question 137

Article 5 refers to rules, methods of calculation and procedures for a gradual yearly reduction in "duties and charges" imposed by the Member States. No similar provision is specified in respect of a reduction in "restrictions". How do the Member States propose to achieve the gradual elimination of such restrictions, and how, in particular, can they ensure that reductions in such restrictions will not be deferred from year to year during the twelve-year period?

Question 138

Is there not a danger that the benefits which are expected to be derived from a gradual integration of the economies of the Member States may be curtailed or delayed due to uncertainty resulting from the lack of a complete and detailed plan for trade liberalization?

Article 5

Question 139

Would the Member States provide an example showing how the weighted average is actually arrived at?

Question 140

The method of calculation of the reduction in duties and charges on the basis of the weighted average of duties and charges applicable in respect of third countries, referred to in the first paragraph of this Article, does not provide the means of ascertaining the extent of the reduction on individual products, particularly as the products affected by the reduction are not known in advance. In order to facilitate a clearer understanding of the reduction mechanism, would the Member States provide a few examples?

Question 141

More detailed information appears to be required concerning the envisaged elimination of duties and charges. For instance, is it correct to assume that, for products listed in a Schedule for the last three-year period, all duties and charges are to be eliminated in those three years?

Question 142

The time factor which enters into the calculation of the reduction in duties and charges entails, for countries acceding to the Montevideo Treaty at a later date, the necessity of implementing, with immediate effect from the date the Treaty becomes applicable to them, a tariff reduction on all goods amounting to 8 per cent of the weighted average multiplied by the number of years that have elapsed since the entry into force of the Treaty:

- (a) Assuming that a country accedes six years after the entry into force of the Treaty, would it be required to lower its customs duties on the goods concerned by 48 per cent at one and the same time?
- (b) If so, is it the opinion of the Member States that such a far-reaching reduction is a practical possibility?

Question 143

- (a) With reference to the second paragraph of this Article and on the assumption that the Montevideo Treaty enters into force in the course of 1960, will the application of the contemplated reductions be based on the duties and charges in effect as at 31 December 1959?
- (b) What is the reason for using a different base year each time the annual calculations are made?

Question 144

What are the methods and the pace envisaged for the elimination of existing quantitative restrictions on imports in each of the member countries? What is the exact scope of the third paragraph of this Article?

Question 145

Is it the intention that the Member State concerned should gradually eliminate all the restrictions referred to in the third paragraph of this Article, or is the relaxation of such restrictions to be effected only to the extent considered necessary to obtain the requisite equivalence with the reductions in duties and charges granted by other Member States?

Article 7

Question 146

Is it intended that, during the fourth three-year period, products representing at least 75 per cent of the aggregate value of trade among the Member States will be included in the Common Schedule? In the absence of any mention of a percentage for the fourth three-year period can it be inferred that, in the view of the Member States, the criterion referring to "substantially all the trade" is not only of a quantitative but also of a qualitative nature?

Question 147

- (a) Will the Common Schedule and the relevant obligations (inter alia the obligation relating to the irrevocability of concessions on products included in the Common Schedule) remain in force after the end of the period of twelve years referred to under Article 2?
- (b) If so, would additions be made to the Schedule in the event that, as a result of altered conditions in trade, substantially all intra-area trade is no longer covered?

Question 148

Are the percentages referred to in this Article to be applied to the total imports of the Member States as a whole or to the total imports of each Member State individually?

Question 149

Will agricultural products be included in the percentages referred to in this Article?

Article 8

Question 150

The fact that, under the second paragraph of this Article, a Member State may withdraw concessions granted in respect of products which appear in its National Schedule constitutes an element of uncertainty. How, for example, would the following case be dealt with?:

Country X has developed standardized, large-scale production and intensified its exports of a particular product, because of its being included in the National Schedule of Country Y. Country Y wants to withdraw this article from its Schedule; Country X opposes this, and no agreement can be reached between them.

Question 151

Do the Member States consider that the retention of the National Schedules, to a substantial extent, until the end of the transitional period, is consistent with the relevant rules of the GATT?

Article 10

Question 152

Would the Member States give examples to indicate the intended scope of the second paragraph of this Article?

Articles 11 and 12

Question 153

What type of measures are envisaged in these Articles which are not covered by Articles 23 to 26?

Article 11

Question 154

Does the expression "products included in the liberalization programme" refer to products listed in the Common Schedule or in a National Schedule?

Question 155

Would the Member States explain whether the phrase "suitable, non-restrictive measures designed to promote trade at the highest possible levels" refers to intra-Area trade only?

Article 12

Question 156

Would the Member States explain fully the nature of the "other circumstances" referred to in this Article?

Question 157

Are the measures envisaged by the phrase "every effort within their power" in this Article intended to include quantitative import restrictions as well as tariff measures, such as for example the withdrawal of tariff concessions granted under the liberalization programme? Could the Member States give examples of the type of measures that might be used?

III. EXPANSION OF TRADE AND ECONOMIC COMPLEMENTARITY

(Articles 14 - 17)

Article 14.

Question 158

In view of the fact that the Montevideo Treaty provides for the gradual elimination of duties, charges and restrictions of all kinds, would the Member States provide more detailed information with regard to the scope of sub-paragraph (a) of this Article?

Question 159

Can the inference be drawn from the provisions of sub-paragraph (a) of this Article that some of the Member States might intend to raise, between the date of entry into force of the Treaty and the initial series of negotiations provided for in Article 4, the level of duties, charges and restrictions imposed by them?

Question 160<sup>1</sup>

What is the reason for not making it mandatory to ensure that imports from within the Area are accorded, from the initial negotiation, treatment not less favourable than that which existed before the entry into force of the Treaty?

Article 15

Question 161

If this Article means that the Member States will, to a greater or lesser degree, harmonize their external tariffs, will the harmonization apply to tariffs on agricultural products in view of the emphasis on industrial production in the Article?

Question 162

Does the "reconciliation" envisaged in this Article mean that quota measures in respect of countries outside the Area will be brought to a uniform level?

Question 163

Are there at present any plans concerning the elimination of quantitative restrictions etc. towards third countries?

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<sup>1</sup> This question relates to the GATT French translation of the Treaty, which shows some difference from the ECLA English translation.

Articles 16 and 17

Question 164

As a result of expediting the closer co-ordination of industrial policies, it would appear that conditions of self-sufficiency may be built up within the free-trade area. Is it not possible that, in such circumstances, the Member States will be led to discriminate against imports from third countries?

Question 165

How would the liberalization programme for commodities covered by the complementarity agreements relate to Articles 4, 5 and 7? Is it envisaged that the removal of tariffs, other import charges and quantitative restrictions would proceed at a different pace?

Question 166

Can third countries expect that their present ability to obtain raw materials will not be impaired by agreements of the kind envisaged in these Articles.

Question 167

What kind of "sponsorship" is it envisaged the Member States might undertake in terms of sub-paragraph (a) of Article 16?

IV. MOST-FAVOURED-NATION TREATMENT

(Article 18-20)

Article 18

Question 168

What is the reason for not incorporating in the Montevideo Treaty all of the provisions of paragraph 1 of Article I of the GATT regarding the most-favoured-nation clause?

Question 169

Is it intended that the preferential tariff treatment accorded by some of the Member States shall be extended to all countries within the Area from the date of entry into force of the Treaty?

V. TREATMENT IN RESPECT OF INTERNAL TAXATION

(Articles 21-22)

Article 21

Question 170

Can it be expected that the elimination of any discriminatory element in internal taxation will be applicable to imports from any country which is a contracting party to the GATT (in accordance with Article III of the GATT)?

VI. SAVING CLAUSES

(Articles 23-26)

Article 23

Question 171

- (a) In the circumstances envisaged in this Article would restrictions be imposed upon like products originating outside the Area?
- (b) If so, could the Member States undertake to notify the CONTRACTING PARTIES to the GATT of any measures taken in pursuance of this Article by Member States who are contracting parties to the GATT?

Question 172

In a case where the interests of another contracting party to the GATT is involved, would a Member State wishing to take action under this Article first have resort to the relevant provisions of the GATT?

Question 173

Will this Article continue to apply after the end of the period of twelve years referred to in Article 2?

Article 24

Question 174

Although this Article states that authorization may be given by the Member States to a Member State to extend restrictions to intra-Area trade, does not the Article as a whole imply that balance-of-payments restrictions should not apply to members of the free-trade area?

Question 175

Would it be permissible, under this Article, for a Member State merely to reinstate quantitative restrictions previously removed in pursuance of Article 3 in respect of Member States only, if the Member State concerned felt that the deterioration in its balance-of-payments situation was attributable to measures which it had had to take under the provisions of the Treaty?

Question 176

What is the reason why the provisions of the second paragraph of this Article do not likewise apply to intra-Area trade in products which are not included in the liberalization programme?

VII. SPECIAL PROVISIONS CONCERNING AGRICULTURE

(Articles 27-31)

Question 177

With regard to the application of the provisions of Chapter VII of the Montevideo Treaty, is the Conference empowered to decide which products shall be considered as being "agricultural commodities"?

Question 178

- (a) Is information available showing the distribution as between Member and non-Member States of imports of such agricultural products as are expected to be included in the liberalization programme from the outset?
- (b) Is similar information available with respect to such agricultural products as may be included in the liberalization programme only at a later stage?

Article 27

Question 179

The Montevideo Treaty gives no indication as to the nature of measures which might be contemplated for the purpose of co-ordinating agricultural development policies as provided for in this Article. Are any such measures contemplated by the Member States?

Article 28

Question 180

To what extent will agricultural products come within the provisions of Articles 2 to 13?

Question 181

Will the assessment of whether there is "anti-economic production" be on a world-wide basis of comparison, or only by comparison with costs of production within the Area?

Question 182

Will the non-discriminatory measures referred to in this Article cease to be effective at the end of the period prescribed in Article 2, or could they be maintained in force by the Conference beyond that period? Assuming the first alternative, how do the Member States propose to ensure that, at the end of that period, such measures could effectively be abolished?

Question 183

- (a) What measures are envisaged in order to equalize the prices of the imported and the domestic product?
- (b) Where such measures are introduced, will these apply also to items where duties are bound under the GATT?

Question 184

What arrangements do the Member States have in mind for the periodic review of measures applied pursuant to this Article during the transitional period?

Article 29

Question 185

How do the Member States who are also contracting parties to the GATT reconcile this Article with their obligations under the GATT, especially in view of Article XXIV:4 of the GATT, which states that "the purpose of a customs union or of a free-trade area should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories".

Question 186

May it be assumed that the Member States, in pursuing the aim set out in the first paragraph of this Article, will give due consideration not only to the traditional flow of intra-Area trade but also to traditional imports from countries outside the Area?

Question 187

Is it intended that the agreements referred to in this Article shall apply exclusively to agricultural commodities which are not included in the programme for liberalization of intra-Area trade?

Question 188

Is it contemplated that the agreements envisaged in this Article may continue in force after the end of the period prescribed in Article 27?

Question 189

- (a) Would the agreements envisaged in this Article mean that a Member State would replace normal commercial importations, necessary to meet deficits in domestic production, by long-term arrangements with other Member States?

- (b) If so, do the Member States envisage that this could mean the exclusion of imports from outside countries, especially in view of the obligation to give priority, under normal competitive conditions, to products originating in the territories of the other Member States?

Question 190

What does "priority" under normal competitive conditions mean? Does it mean that, all else being equal, priority shall be given to Member States? Or does it mean that priority can be given to Member States even though sources outside the Area can supply at lower prices?

Question 191

Can the agreements referred to in this Article consist of sales/purchase contracts between importing and exporting countries?

Article 30

Question 192

Considering that Article 27 calls for policies aimed at securing the most efficient utilization of the natural resources of Member States and that Article 28 rules out any increase in anti-economic production, may it be assumed that the purpose of this Article is to prevent Member States from employing an increasing number of workers in the production of a given volume of agricultural output? If not, what is the specific purpose of this Article?

Article 31

Question 193

Is the term "reduction of exports" intended to mean a reduction in absolute value or a reduction in relation to the volume of exports which would have been reached had the measures referred to in Article 28 not been instituted?

VIII. MEASURES IN FAVOUR OF COUNTRIES AT A RELATIVELY LESS-  
ADVANCED STAGE OF ECONOMIC DEVELOPMENT

(Article 32)

Question 194

Are the measures in favour of countries at a relatively less-advanced stage of economic development to be regarded as general exceptions to the programme of trade liberalization with the consequence that such measures could likewise be initiated or maintained after the end of the twelve-year period?

Question 195

Would it be correct to assume that steps taken under this Article will not have the effect of injuring the interests of third countries?

Question 196

Does this Article imply that even anti-economic production of agricultural products would be countenanced, together with limitation of imports, in spite of the exception to it in Article 28?

Question 197

Do the collective arrangements referred to in sub-paragraph (e) of this Article refer also to help in expanding the agricultural development of less-developed Member States and the promotion of their external trade in agricultural products?

Question 198

Would the special technical assistance programmes referred to in sub-paragraph (f) of this Article cover agricultural production?

Question 199

Is it intended that there should be some review of the special provisions of this Article, so as to take account of any improvements in economic development and so gradually lessen any internal differences of treatment?

IX. MISCELLANEOUS PROVISIONS

(Articles 48-54)

Article 48

Question 200

With reference to the first paragraph of this Article, will there be a similar guarantee for third countries that changes made will not imply a level of duties and charges less favourable than that in force before the changes?

Article 49

Question 201

In view of the far-reaching significance of the rules governing criteria for determining the origin of goods in a free-trade area, full information on the criteria adopted or to be adopted in the Latin American free-trade area would be very useful in assessing the practical scope of the Treaty:

- (a) Is it the intention of the Member States to make available to the CONTRACTING PARTIES to the GATT the text of any rules which they might adopt concerning the origin of goods?
- (b) Are they at this stage in a position to give information on such rules?

Question 202

What are the means envisaged by the Member States to protect themselves against deflections of trade? Is it intended to require a certificate of origin for all goods or only for specific categories of goods?

Question 203

What criteria for determining the origin of goods will be applied during the intermediary period which may elapse before the rules on origin enter into force?

Question 204

With reference to sub-paragraph (c) of this Article, is it the intention of the Member States to adopt the Brussels Nomenclature or to establish a distinct tariff nomenclature of their own?

Question 205

With reference to sub-paragraph (e) of this Article, is it the intention of the Member States to establish criteria different from those contained in the General Agreement with regard to "dumping" and other unfair trade practices?

Article 50

Question 206

What are the reasons which have prompted the Member States to introduce a procedure of prior approval for the re-export of products imported by a Member State from the Area?

Question 207

Could the Member States provide information concerning the "degree" which the Committee will determine for the purposes of the second paragraph of this Article?

Article 52

Question 208

Can it be assumed that this Article applies to agricultural products as well as industrial products and that production relying on subsidies would be classified as anti-economic for the purposes of Article 28?

Question 209

- (a) Does this Article also relate to the subsidization of exports to countries outside the Area?
- (b) If not, what rules will apply to the subsidization of such exports?

Question 210

Are the provisions of this Article to be construed as debarring goods which are subsidized from being exported to the Area when such goods are also produced in other countries of the Area?

X. FINAL CLAUSES

(Articles 55-65)

Article 58

Question 211

This Article provides that accession to the Treaty will be open to all Latin American countries. Will any countries other than Latin American countries be considered for full or partial membership?

Article 62

Question 212

In the case of those Member States which are also contracting parties to the GATT, which provisions of the Montevideo Treaty are considered to be inconsistent with the GATT and in what ways will the Member States concerned seek to reconcile the provisions of the Treaty with the provisions of the GATT?

Question 213

What attitude will the Member States adopt in respect of agreements signed with countries outside the Area, due consideration being given to the second paragraph of this Article?

PROTOCOL No. I

Question 214

Would it be possible for the individual Member States to provide a rough estimate of the values which "t" and "T" in the formula set out in paragraph 5 of Title I of this Protocol are likely to assume at the time of the inauguration of the programme for trade liberalization? Would an increase in "T" be considered as a step towards the fulfilment of the obligations of a Member State?

Question 215

Could the Member States also supply all contracting parties to the GATT with the information called for under sub-paragraphs (a) to (f) of paragraph 8 of Title II of this Protocol?

Question 216

What are the meaning and scope of paragraph 17 of Title V of this Protocol? Is it contemplated that duties, charges and restrictions should be eliminated at a faster rate or to a greater extent in the case of Member States which impose charges and restrictions substantially higher or more severe than those in force in other countries of the Area? Could examples be quoted?

Question 217

What is meant by "prior equalization" in paragraph 18 of Title V of this Protocol?

PROTOCOL No. 4

Question 218

Are the Member States in a position to give information on the main provisions of the agreements relating to commitments to purchase and sell petroleum and petroleum derivatives referred to in this Protocol, also on the period of duration of such commitments and on the value of total trade involved?

GENERAL QUESTIONS

Question 219

The Preamble emphasizes that the expansion of trade with the rest of the world is to follow after "the strengthening of national economies". Do not the Member States consider that the improvement of their trade links with third countries is necessary to the progressive establishment of the free-trade area and that more consideration should have been given to this aspect in the Treaty?

Question 220

- (a) To what extent will State-traded commodities come within the scope of the free-trade Area?
- (b) Are any special arrangements in mind to cover these commodities?