The Committee considered the questions raised in the note by the Executive Secretary (COM.I/1 and Corr.1). The discussion brought out the fact that a number of governments were not yet prepared to take a definite stand on main issues and the Committee decided to reconvene during the Fourteenth Session with a view to coming to final conclusions and reporting to the CONTRACTING PARTIES at that same Session. The Committee further asked the Executive Secretary to record the points discussed and the suggestions made by members of the Committee. The present note is designed to facilitate the Committee’s work when it reconvenes at the Fourteenth Session: the numbers of sections and paragraphs correspond to those of COM.I/1.

I. CONVENING OF A TARIFF CONFERENCE

(a) A number of members of the Committee indicated the willingness in principle of their governments to participate in a new round of tariff negotiations; but, as indicated above, the Committee was not yet in a position to make definitive recommendations to the CONTRACTING PARTIES until it had given a thorough examination to the various points raised in the paper. Moreover, the representative of the Six pointed out that it would be essential to know in advance what would be the scope of the negotiations contemplated, what countries would actually participate and what products would be included. It was for instance important to know beforehand whether only a few major powers (United States, United Kingdom, EEC) would take part or whether a number of other countries would also participate; whether the negotiations would spread over all products or a small number and, if so, which; and whether the negotiations would be limited to most-favoured-nation rates or also include preferential margins.

(b) Scope of the Conference

(1) The Committee did not suggest that invitations to participate be sent to countries not yet contracting parties to the General Agreement but recognized that if a Conference were to be held in the near future, Cambodia should be given an opportunity to negotiate for accession.
The Committee was of the opinion that if a Conference were to be held it would be convenient to arrange for negotiations with the European Economic Community under Article XXIV of the General Agreement on Tariffs and Trade to be conducted at the same time as the new round of negotiations among contracting parties, including negotiations with the Six on the basis of the Common Tariff of the EEC. This view was based on considerations of practical convenience and did not pre-judge whether the negotiations under Article XXIV should precede the other negotiations or whether the two exercises would be conducted simultaneously. Members of the Committee took into consideration the fact that negotiations with the EEC under Article XXIV will have to be concluded before the date on which the first adjustments in the tariffs of the Six will have to be made (i.e. before 1 January 1962) and that the other negotiations will have to be finalized before the powers of the President of the United States, enabling him to enter into new negotiations, expire on 30 June 1962. The existence of these time limits would make it impracticable to keep these two sets of negotiations physically separate.

The Committee did not reach any conclusion on the advisability of holding Article XXVIII negotiations at the time of the Conference as suggested in COM.I/1. It felt that this might have advantages; but there were also some disadvantages and members wished to have more time to reflect on the question.

The members of the Committee recognized that there was a close connection between negotiations under Article XXIV and the examination of the incidence of the Common Tariff under Article XXIV. There were various suggestions with respect to the timing of these two exercises: one member suggested that the examination under 5(a) should follow the negotiations; another felt that the CONTRACTING PARTIES should be given an opportunity to submit the Common Tariff and the methods which had gone into its preparation, to a broad critical survey before negotiations under paragraph 6 were begun; another suggested that there might be a continuous examination of the incidence which should start before the negotiations under Article XXIV, and which might not be concluded until after the negotiations had been completed.

With respect to negotiations on the tariffs of associated territories of the EEC, it was pointed out by the representative of the Six that no problem would arise: these territories would be represented at the Conference by whatever authorities were responsible for their international commercial relations.
(e) **Timing of the Conference and various preliminary stages**

On the assumption that the CONTRACTING PARTIES decide to hold a tariff conference in the near future, the Committee agreed on the following target dates:

(i) that the Conference start about 1 September 1960 with a view to
(ii) completing the negotiations in time for the results to be put into force on 1 January 1962;
(iii) that lists of requests be submitted by governments intending to participate around 1 April 1960;
(iv) that in order to facilitate the task of the United States authorities preliminary lists of products be sent to Washington in April or May 1959. If a country were prevented from keeping to this date the United States authorities would still take into consideration lists which were received before 30 June 1959.

(f) **Site of the Conference**

This point was added to COM.1/L. The general feeling of the Committee was that the Conference should be held in Geneva in view of the facilities and it instructed the secretariat to enquire as to the accommodation which would be available in Geneva during that period. Should it be impossible to hold a meeting in Geneva the Executive Secretary was instructed to consider possible alternatives and to make a report to the Fourteenth Session.

II. **ARRANGEMENTS FOR THE CONFERENCE AND RULES FOR THE NEGOTIATIONS**

(a) Some members of the Committee felt that it was necessary before proceeding to negotiations with the Six on the basis of the common tariff to know what will be the final shape of their tariff; for this reason they considered that the negotiations under Article XXIV:6 should precede the general round and that as far as possible these negotiations should be completed before the countries could exchange their lists of offers with the Six and enter into negotiations. Other members of the Committee felt that although logical this arrangement had many disadvantages. First, there was the danger that the negotiations under Article XXIV:6 would take some time and would delay unduly the second phase of negotiations and make it extremely difficult to complete such negotiations in time for the results to enter into force on 1 January 1962. Second, one delegation at least felt that if the two exercises were merged it would be easier to arrive at a reasonable settlement than if the two negotiations were kept separate.
A suggestion was made that it might be possible to allow the participating countries to adopt either the first method of two stages, or the second method of merged negotiations. It was pointed out, however, that as the negotiations under Article XXIV(6) have a multilateral character and as the negotiations with major countries may have an important bearing on the negotiations with other countries, this solution would have the same defects as the merging of the negotiations for the countries which think it essential to know the results of the negotiations under Article XXIV(6) before they start negotiating with the Six on the basis of their common tariff.

The Committee agreed that arrangements would have to be made in order to communicate to all the participating countries the changes which will be made in the common tariff of the EEC in the course of the negotiations.

The Committee considered that it would be preferable to include all the results of the tariff negotiations in the same legal instrument but before coming to any conclusion the members of the Committee wished to examine further the legal implications of such a procedure.

(b) Negotiations for Accession

No definite views were expressed by the Committee on this point.

c) Rules for Negotiations between Contracting Parties

(i) The Committee was generally in favour of adopting the same rules as at the 1956 tariff conference. One member proposed that the Tariff Negotiations Committee be strengthened so as to give greater force to its recommendations and that it meet some time before the opening of the conference to examine lists of requests and make adequate recommendations. This latter proposal was directed particularly towards facilitating the grouping of suppliers of the same product so that they could make more attractive offers and thus make it easier for the importing country to grant a concession. Reference was also made to the method of negotiations contemplated in the proposals considered by the OEEC regarding tariff negotiations among members of that organization.

(ii) The Committee did not consider the question whether the list of measures which may become the object of negotiations should be amplified. The Committee took note of the suggestion made in the Haberler Report to the effect that:

"As internal taxes are not at the present time deemed to be negotiable in the same way as ordinary customs duties, a number of importing countries have declined to enter into negotiations for the reduction of revenue duties. This difficulty might be avoided and the matter clarified if the following rule, accepted
by the governments participating in the Havana Trade Conference as an interpretative note to the Final Act, but which was not embodied in the relevant section of the GATT, were adopted as a rule for negotiations under the GATT:

"An internal tax (other than a general tax uniformly applicable to a considerable number of products) which is applied to a product not produced domestically in substantial quantities shall be treated as a customs duty under Article 17 in any case in which a tariff concession on the product would not be of substantial value unless accompanied by a binding or a reduction of the tax." (Havana Charter, Interpretative Note to Article 17).

but was not prepared to discuss that suggestion at their first meeting.

(iii) Negotiations with the Members of the EEC

(1) The views expressed in this connexion are recorded in paragraph VI(a) below.

(2) The Committee considered the problem arising from the fact that the common tariff will enter into force only after the end of the transitional period and that during that time the individual tariffs will continue to operate. The Committee did not reach any definite conclusion on the question raised by the secretariat in its Note; it was argued on the one hand that the concessions by the Six should be limited to the level of the rates of the common tariff and should not include any particular provisions for the levels of the individual tariffs at various stages of the transitional period or the pace at which the individual tariffs should be adjusted to reach the level of the common tariff. On the other hand, it was considered essential to provide for separate ceilings at various stages of the transitional period. The members of the Committee agreed to reflect on this point and to resume the discussion at the next meeting.

To illustrate the problem involved the following example may be quoted. Let us assume that the Six agree to bring the duty on a given product from 35 per cent, as contemplated in the common tariff, to 25 per cent. The present tariffs of country A and country B are respectively 50 per cent and 10 per cent. The Rome Treaty will require country A to bring down its rate of 50 per cent to 25 per cent by stages and country B will have to bring its rate of 10 per cent up to the rate of 25 per cent also by stages. The representative of the Commission confirmed that in such a case the provisions of the Rome Treaty would apply to the new rate of 25 per cent and not to the proposed rate of 35 per cent. It was clear, however, that under the Rome Treaty country A might accelerate the adjustment and therefore bring its tariff to 25 per cent more rapidly than it is required, whereas
country B might delay the reduction of its rate and keep strictly to the provisions of the Treaty. If nothing is agreed upon there would be a certain measure of uncertainty for the exporting countries which would have put into force their own concessions soon after the conclusion of the negotiations. The negotiating countries might wish to obtain from the Six either a commitment that country B will waive its rights under Article 24 of the Rome Treaty or, alternatively, that the schedule of country B would provide for separate ceilings to be observed until the end of the first stage and during the second and third stages. In the example quoted the schedule might be worded in the following way:

<table>
<thead>
<tr>
<th>Stage</th>
<th>During the 1st stage</th>
<th>During the 2nd stage</th>
<th>During the 3rd stage</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10 per cent</td>
<td>14.5 per cent</td>
<td>19 per cent</td>
</tr>
</tbody>
</table>

and then the common tariff rate: 25 per cent.

(3) The Committee considered that if the results of the negotiations include not only the eventual rate of the common tariff but also the rates applicable during the transitional period, it will probably be necessary to include the concessions in the individual schedules of the Six and to provide for a common schedule which will apply to the Six and replace all the present individual schedules of the Six at the end of the transitional period. The method used for the replacement of the United Kingdom Schedule XIX - United Kingdom expressed in the terms of the Brussels Nomenclature, might serve as a model.

### III. NEGOTIATIONS UNDER ARTICLE XXIV:6

The Committee considered the text of paragraph 6 of Article XXIV and came to the conclusion that the procedure to be followed was the same as that of Article XXVIII; in other words, that negotiations should be conducted in the light of paragraph 1 and that they should aim at an agreement which might include provisions for compensatory adjustment. The only difference appears to be that the Six would be entitled to consider that the reductions brought about in the duty applicable on the same product in the tariffs of the other members of the EEC would be taken into account in the computation of the compensatory adjustment provided for in Article XXVIII. If no agreement is reached in the course of the negotiations, the other provisions of Article XXVIII are operative.

Members of the Committee could not reach a unanimous agreement as to whether Article XXIV:6 did or did not modify the practice followed in negotiations under Article XXVIII whether the contracting parties whose interests
are affected by a change or withdrawal of concession determines for itself whether the compensation offered is adequate or not. Most members of the Committee were of the opinion that the separate provision concerning compensatory adjustment in Article XXIV could not modify the general procedures of Article XXVIII.

(b) & (c) The Committee recognized that the negotiations under paragraph 6 of Article XXIV would include a very large number of items and that for practical purposes it might be difficult to adhere strictly to the procedure which has been followed so far in the re-negotiation of isolated items under Article XXVIII. The representative of the Commission indicated that the Commission would be prepared to circulate before the opening of the conference a list of items bound under the GATT in the tariffs of one or more members of the ESC. This list would indicate for each item the compensation which in the view of the Six is already afforded by the reductions brought about in the duties of the other members. This list would indicate whether the Six are prepared to offer additional compensation on other items or whether in their view the "internal compensation" is sufficient. In order to compute the amount of such internal compensation the Commission will compare the customs revenue derived from the rates as bound under the GATT and the customs revenue to be expected from the rate under the common tariff; this would introduce an element of weighting. The Committee agreed that the communication of this list would be extremely useful for the preparation of the negotiations.

The representative of the Commission wished to know whether the Six would be entitled to consider that, if it is recognized that the general level of the common tariff is lower than the incidence of the present tariffs, the difference might be considered as part of the compensatory adjustment provided for in paragraph 6 of Article XXIV. The Committee did not express any views on this point.

(d) The text of paragraph 6 of Article XXIV refers only to the compensation afforded by reductions on the tariffs applied to the same item; it does not refer expressly to compensation which may be afforded by reductions brought about in the duties applicable to other products. The first case may be the following: on a particular bound item the rate in the common tariff may be such that it represents a reduction as compared with the sum of concessions granted by the Six under the GATT bindings. If the Six are prepared to bind the rate at that level this would involve an additional concession and the question may be raised whether the Six would be entitled to count this as part of the adjustment with respect to other products contemplated in Article XXVIII or, if that is not the case, whether they would be free to bind the rate at the higher level than the rate provided in the common tariff so as to eliminate the additional advantage which they were prepared to offer to the contracting parties concerned. The second case arises when the duties have not been bound in all the tariffs. The offer by the Six to bind the rate in the common tariff would imply that the scope of the binding would be extended. The question there is again whether the Six would be entitled to consider the extension of the binding as a new concession to be taken into
account or whether, if that is not accepted, they would be free to withdraw the bindings already granted on that item in accordance with the procedures of Article XXVIII. The representatives of the EEC considered that these questions were very important and that some decision should be taken before the negotiations take place; other members of the Committee felt that these were practical questions and had to be left for bilateral discussions in the course of negotiations. The representatives of the Community made it clear that unless the Six were entitled to obtain a credit for such additional concessions as would be afforded in the two cases referred to above, it was difficult for them to see how negotiations under Article XXIV:6 could be conducted.

(e) The Committee considered whether the Rome Treaty provisions relating to the transitional period would make it necessary to agree on ceilings not only for the rates which will be in force at the end of the transitional period, but also for the rates which will be applied during the transitional period by the Six for the products the rates of which had been bound previously under the GATT and the products on which compensation is offered. Suppose, for instance, that the rates on product "X" are as follows:

<table>
<thead>
<tr>
<th>Product &quot;X&quot;</th>
<th>Common Tariff</th>
<th>B</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>10 per cent</td>
<td>25 per cent</td>
</tr>
</tbody>
</table>

As a result of the negotiations the Six might agree to bring down the common tariff from 25 to 20 per cent on the product "X". This might be limited to the commitment to bind the duty at 20 per cent in their common GATT schedule; no further commitment would be entered into concerning the transitional period. Or, it might be agreed that the adjustments during the transitional period would also be provided for in the arrangement as follows:

Schedule A

<table>
<thead>
<tr>
<th>During the 1st stage</th>
<th>During the 2nd stage</th>
<th>During the 3rd stage</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 per cent</td>
<td>13 per cent</td>
<td>16 per cent</td>
</tr>
</tbody>
</table>

and then the common tariff rate: 20 per cent.

As regards Schedule B, there may be no need to provide for specific ceilings, since the provisions of the Rome Treaty would appear to be sufficient.

In most cases the arrangement would be different in the sense that the Six might not agree on any reduction of the rate on product "X" but would agree, for instance, that the rates of product "Y" will be reduced. In that case, it might still be necessary to synchronize the adjustments relating to product "X" with the adjustments provided for product "Y". The arrangement, therefore, might be elaborated and take the following form:
Product "X"

Schedule A

<table>
<thead>
<tr>
<th></th>
<th>During the 1st stage</th>
<th>During the 2nd stage</th>
<th>During the 3rd stage</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10 per cent</td>
<td>14.5 per cent</td>
<td>19 per cent</td>
</tr>
</tbody>
</table>

and then the common tariff rate: 25 per cent.

Product "Y"

Rates as follows:

<table>
<thead>
<tr>
<th>A</th>
<th>Common Tariff</th>
<th>B</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 per cent</td>
<td>25 per cent</td>
<td>40 per cent</td>
</tr>
</tbody>
</table>

The Six agree to a Common Tariff of 20 per cent, and agree that A will keep to the following time-table:

<table>
<thead>
<tr>
<th></th>
<th>During the 1st stage</th>
<th>During the 2nd stage</th>
<th>During the 3rd stage</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>8 per cent</td>
<td>11.6 per cent</td>
<td>15.2 per cent</td>
</tr>
</tbody>
</table>

and then the common tariff rate: 20 per cent.

VI. OTHER QUESTIONS

(a) & Submission of the draft of the common tariff

(b)

The representative of the Commission informed the Committee that they hoped to submit the draft of the common tariff to the contracting parties during the first weeks of 1960 or earlier. As regards items in List G, the Commission was making an effort to obtain an agreement as soon as practicable. The common tariff as submitted early in 1960 would be fairly complete; the representative of the Committee agreed that the results of negotiations between the Six of List G items would be communicated to the contracting parties as and when the rate has been agreed upon. Concerning the right which the Six have under the Rome Treaty to add new items to List G, the representatives of the Committee were not in a position to express any views concerning the possibility of asking the Six to exercise this right within a shorter period than now contemplated under the Treaty. It was suggested that the draft of the common tariff might be communicated to the contracting parties piece-meal without waiting for the completion of the tariff as a whole. The representative of the Commission pointed out that this suggestion would not be practical since the Council of Ministers will have to consider the draft as a whole and see whether some harmonization would not be required. The Commission will therefore be obliged to submit the tariff as a whole when it has been approved by the Council of Ministers.
Statistics: The representative of the Commission indicated that it would be prepared to furnish statistical information on the import figures into the territories of the Six as a whole for 1957 which was the year chosen by the Committee; if possible, the statistical information relating to 1958 could be sent at a later stage. He felt that it would not be possible to give for each bound item the import figures for each member of the EEC; the Commission would, of course, be prepared to supply supplementary information on request in the course of the negotiations. As regards breaking down these figures for the main suppliers, the representative of the Commission felt that this would involve considerable work and that, in any case, the supplying countries would have reliable figures of their own.

Consolidated GATT Schedules: The Commission pointed out that the statistical information could only be prepared when the Six have expressed their GATT schedules in terms of the Brussels Nomenclature which has been adopted for the common tariff. This work was in progress; France has already submitted a draft consolidated schedule which it was expected to include in the Ninth Protocol of Rectifications and Modifications; Germany had submitted unofficially a draft consolidated schedule in line with its new tariff; as regards Benelux, a draft will be sent to the Commission shortly and the representative of the Benelux countries stated that the governments will consider the possibilities of communicating this draft to the contracting parties, although the legal text could only be made available when the changes in the tariff had been approved by the respective Parliaments. As regards Italy, the new tariff has been introduced on 1 January 1959 and it was expected that the draft consolidated schedule would be circulated within a few months.