GENERAL AGREEMENT ON
TARIFFS AND TRADE

EUROPEAN ECONOMIC COMMUNITY

Questions submitted to the Interim Committee

Under the procedures agreed upon by the Intersessional Committee at its meeting on 24–27 April, (IC/SR.30), contracting parties were invited to send to the Executive Secretary the questions they wished to put to the Interim Committee for the Common Market concerning the provisions of the Treaty and its implementation. From the communications received the following consolidated list of questions has been prepared and transmitted to the Chairman of the Interim Committee.
I. THE TRANSITIONAL PERIOD

(Article 8)

1. This Article provides that (a) a decision is needed before passing to the second stage; (b) the second and third stages are each of four years; and (c) the total period of transition may not be longer than fifteen years.

The representative of the Interim Commission stated at the meeting of the GATT Interseesional Committee in April that (c) was an "absolute guarantee of a maximum transitional period of fifteen years". Having regard to this assurance and to (b), can the Member States say what is implied in (a)? Is the effect of these provisions, taken together, that there must be a move from the first stage to the second stage at the latest at the end of the first seven years?

2. (a) Could an indication be given of the "main aims" referred to in paragraph 3?

(b) What will happen if these aims are not achieved? Will the Treaty be null and void, or will the preferential system established in the first stage be maintained? (Ref: Article 240)

3. Article XXIV:5(c) of GATT requires that an interim agreement for the formation of a customs union "shall include a plan and schedule". Is it the intention of the Member States to provide a more precise plan and time-table of the action to be taken during the transitional period?
II. THE ELIMINATION OF CUSTOMS DUTIES BETWEEN MEMBER STATES

(Articles 12 to 17)

Article 14

4. This Article provides for a 30 per cent reduction overall in each of the first two stages and 40 per cent in the third stage. Paragraph 3 calls for a minimum reduction of 20 per cent on individual products in the first stage, and 35 per cent by the end of the second stage, leaving 65 per cent to be completed by the end of the third stage. Paragraph 6, however, requires Member States to endeavour to achieve reductions of 25 per cent on individual products in each of the first two stages, leaving 50 per cent in the last stage.

(a) What is the force of the requirement in paragraph 6 and to what extent does it override the minimum reductions provided for in paragraph 3?

(b) In view of the form of the plan is there not a real danger that, even if Member States achieve the targets set in paragraph 6, they will find themselves left with such heavy commitments in the final stage that they may not be able to complete the programme of tariff reductions by the end of the transitional period, with the result that the achievement of a full customs union is further delayed at least for a substantial number of tariff items?

(c) What measures have the Member States in mind in providing (in paragraph 6) for the Commission to make recommendations to members where there is a risk of failure to achieve these targets and the objectives in Article 13? In particular, what measures do they contemplate to prevent the accumulation of hard-core duties? Is it their intention to administer the rules regarding escape clauses in such a way that resort to them will be granted only in very exceptional and serious circumstances?

Article 14(5)

5. What "special problems" are foreseen?

Article 14(7)

6. What circumstances are envisaged as giving occasion to amend the terms of Article 14, and thereby to change or retard the timing of the reduction of duties and the achievement of a true customs union? Would any such amendment be subject to the provisions of Article 8(6) which fix the maximum transitional period at fifteen years?

Article 16

7. What export duties and taxes are at present effective in Member States?
III. THE COMMON TARIFF AND NEGOTIATION ON GATT CONCESSIONS

(Articles 18 to 29 and 111)

Article 18

8. This Article contains an expression of the willingness of the Member States to enter into agreements aimed at reducing duties below the general level which these States could claim to enforce on the establishment of the customs union. Would contracting parties be correct in assuming that this provision envisages negotiations only where they seek concessions on the rates of a common tariff which has been drawn up in accordance with Article XXIV of the GATT?

9. Does this Article envisage bilateral negotiations between individual Member States and third countries on the tariff rates applicable to specific commodities entering the customs union?

10. Is the establishment of the common tariff likely to result in a strengthening of the bargaining position of the Member States vis-à-vis less developed countries and countries largely dependent upon the export of primary commodities? Will this be further aggravated by the association of the dependent territories?

11. Whereas some Member States have imposed only low duties on many primary products, such as tobacco, tea, coffee and spices, the duties of the common tariff on such commodities may be considerably higher. What could be done to remedy this situation?

Articles 19 and 20

12. (a) When is it expected that the Community will have available, for consideration under Article XXIV of GATT, the proposed rates of duty for the common external tariff that result from the application of the various relevant Articles of the Treaty, including Articles 19 and 20?

(b) Can copies of the tariffs of the four customs areas covered by the Community, containing the duties levied on 1 January 1957, on which the common tariff is to be based, be made available to the contracting parties?

13. The provisions of Article 19 appear to require generally that arithmetical averages of the duties levied on 1 January 1957 should be adopted (taking no account of the volume of trade passing across the various customs frontiers). There are, however, a number of exceptions to this general rule including, in particular, the following:

As regards the Italian tariff, the duties taken for the purpose of calculating the common tariff will ignore the reduction of 10 per cent which has been in operation over a wide range of the Italian tariff since 1951. Moreover, conventional Italian rates are to be used in the calculation instead of applied rates where the former do not exceed the latter by more than 10 per cent. Where conventional rates exceed the applied rates by more than 10 per cent, the applied rates plus 10 per cent are to be used.
List A in the Annex sets out a number of items where the "legal" French tariff rates are to be used instead of the rates which have actually been applied for many years.

For products in List E where the Benelux tariff does not exceed 3 per cent it is to be deemed to be 12 per cent for the purposes of calculating the common tariff.

The duties agreed in List F in respect of a number of important agricultural products are substantially in excess of the rates which would have resulted from the application of the general treaty provisions.

(a) Having regard to the special treatment covering some sections of the common tariff, referred to above, is it not the case that this will result for a wide range of products in higher common duties than if the general rules had been applied? How do the Member States intend to ensure that the duties in the common tariff shall not on the whole be higher than the general incidence of the duties now applicable in the constituent territories, with due regard to the volume of trade passing across the various customs frontiers?

(b) Where these higher-than-average duties in the common tariff may threaten particularly damaging effects on the trade of individual contracting parties do the Member States accept that this would be difficult to reconcile with the general spirit of the GATT, and in particular the provisions of paragraph 8 of Article XXIV "that the purpose of a customs union ... should be to facilitate trade between the parties and not to raise barriers to the trade of other contracting parties with such parties"? How do the Member States intend to mitigate such risk of damage to the trade of individual contracting parties?

(c) Are the Member States prepared to reduce the level of their draft common tariff if it is proved to be higher than the duties previously applicable?

14. Will duty suspensions at present in force be continued?

15. Will tariff quotas established in GATT tariff negotiations remain effective?

16. Will the Community's common tariff be a single tariff system applicable to all non-member countries?

17. Will France maintain its multiple tariff system (preferential, most-favoured-nation and general) throughout the transitional period?

18. What are the reasons for, and the basis on which are established, the various lists mentioned in Articles 19 and 20?

19. Why is wool included in list B when the average of existing rates is below 3 per cent, and what rates are proposed for wheat and wool?
20. Would the Interim Committee indicate, so far as possible, the tariff rates and import taxes which will be levied in the various stages on raw jute, raw cotton, hides and skins, tea, wool, cotton yarn, cotton piece-goods, cotton and rape-seed cake, animal hair, bones and bonemeal, carpets, sports goods and products of cottage industries, and how these compare with the duties and taxes at present levied in each of the Member States?

21. What steps will be taken to keep third countries informed of contemplated additions to list G and of the progress of negotiations towards fixing the common duties for the various items?

22. Will the duties fixed for items in list G be submitted to the CONTRACTING PARTIES for their consideration?

23. Will the general principle of the arithmetical average be applied in the fixing of the duties for items in List G?

Article 21

24. Can the duties of the common tariff be arbitrarily changed by the Council in order to "ensure the internal harmony" of the tariff?

Article 22

25. (a) Can the Interim Committee give some indication of the extent to which customs duties of a fiscal character are likely to be taken into account for calculating the arithmetical average?

(b) Would the duties thus taken into account be the basic duties before deduction of any amounts transferred to internal taxes?

26. Will all fiscal duties be aligned or will Member States be free to impose different rates on imports from third countries?

27. Could the Interim Committee give some indication of the products that are likely to be subject to fiscal duties?

Article 23

28. Paragraph 1(a) states that on items where the duties do not deviate from the common tariff by more than 15 per cent, the individual rates shall be brought to the common tariff level by the end of the first stage. Will this adjustment take place at this rate where an item is within this range in one or two countries, or only when the duty in all countries is within a 15 per cent deviation from the common rate?
Article 25

29. Will tariff quotas be non-discriminatory? If not, how will quotas be allocated? How will the size of quotas be determined? Will Member States be able to undertake bindings in respect of such quotas? If so, for what length of time would such bindings be undertaken?

30. Why is there no provision for the granting of tariff quotas for the products in List F?

Article 28

31. Do the terms of this Article imply that, during the transitional period, amendments to the common tariff rates, and the lists, established by Article 19 may be made by a unanimous vote of the Council?

32. If any modification involves an increase of a bound rate of duty, would the appropriate provisions of the General Agreement be applied?

Article 29

33. Do the provisions of Article 29(a) mean that the Commission is under the obligation to approve measures necessary for the promotion of trade with third countries and to act against measures which obstruct such promotion?

Article 111

Gatt Tariff Concessions

34. Seeing that the transitional period may be as long as fifteen years, how do the Treaty countries propose to comply with the provisions of GATT Article XXIV:6? When and how do the Member States propose to enter into negotiations with contracting parties?

35. Article XXIV:6 requires that in providing for compensatory adjustment due account should be taken of compensation afforded to third countries by the reductions brought about in the corresponding duty in the other constituents of the union. Such compensation will not always be adequate; indeed where the common tariff has been fixed on a particular item above the average level of the existing duties, there may be no compensation whatever of this kind. What arrangements do the members of the Community contemplate in the negotiations foreseen under paragraph 6 of Article XXIV for adjustment of the proposed tariffs or effective compensation elsewhere so as to satisfy individual contracting parties in respect of the range of trade in which they are particularly interested?

36. When Member States propose to enter into negotiations with contracting parties to what extent will the Commission be consulted? What powers are conferred on the Commission in this connexion?
37. On some items which at present appear in the GATT Schedules of the Member States, rates of duties will be fixed by negotiations between these States. Will the countries in whose favour the rates of duties on these items were bound be consulted before the new rates are negotiated?

38. In what way are tariff negotiations to be conducted concerning the external tariffs of overseas countries and territories?
IV. ELIMINATION OF QUANTITATIVE RESTRICTIONS BETWEEN MEMBER STATES

(Articles 30 to 37)

39. 
Articles 30 to 37 require Member States to remove progressively all their quantitative restrictions on trade among themselves and to eliminate them entirely by the end of the transitional period.

(a) Do these obligations mean that with respect to trade within the Community balance-of-payments criteria would no longer be relevant in determining import restrictions policy?

(b) Do these obligations mean that for a Member State experiencing balance-of-payment difficulties of a given intensity import restrictions imposed against third countries would be more intense than would be the case if they were applied on a non-discriminatory basis?

(c) Similarly, do they 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?

Article 33

40. This Article provides that one year after the entry into force of the Treaty existing import quotas arranged bilaterally among the Member States would be consolidated into single quotas to all Member States without discrimination, and the total value of all such quotas would be increased by 20 per cent and by at least 10 per cent for each product. The quotas are to be increased each year in accordance with the same rules and in the same proportion by comparison with the preceding year.

(a) Does this system apply to all products for which there are import quotas in existence, including agricultural products?

(b) What safeguards would there be to ensure that the yearly increases in these quotas will not lead to reduction of the import quotas which individual Member States may have for imports from outside countries?
41. (a) The system laid down in this Article would have the effect of intensifying discrimination against third countries. What provision is proposed for the elimination or relaxation of restrictions on imports from third countries?

(b) What treatment will be given in the various stages to imports from third countries of primary commodities and raw materials, such as jute, cotton, hides, tea, wool, etc., and how will this compare with the treatment now accorded to these products by the various Member States?

42. If quantitative restrictions against third countries are maintained during the transitional period, on what principles will the import control be based (global or bilateral quotas, seasonal liberalization, etc.)? What coordination will there be of existing free lists? Will such restrictions be maintained after the end of the transitional period?

Article 37

43. In paragraph 5 it is stated that "obligations shall be binding only so far as they are compatible with existing international agreements". What is the significance of this reference? Is this intended as a reference to such agreements as the International Wheat Agreement or to the State-trading provisions of GATT?
V. AGRICULTURE

(Articles 38 to 47)

TRANSITIONAL PERIOD

44. (a) Does the provision of Article 8(6) to the effect that the total period of transition cannot be longer than fifteen years apply fully to all the provisions of the agricultural sector?

(b) Which are the features of the regime allowed by Articles 38 to 47 which are considered to be confined exclusively to the transitional period?

(c) Is there any provision whereby the operation of these features could be prolonged beyond the transitional period?

45. In view of the comprehensive provisions of Article 40(3) and of the provisions of Article 44(6) and Article 46 can it be stated that all duties and other barriers to trade in agriculture within the Community will have been removed within the transitional period? Is there not a risk that the provisions of this part of the Treaty will result in the perpetuation of a preferential area instead of a true customs union as contemplated in Article XXIV of the GATT?

DEVELOPMENT OF AGRICULTURAL POLICY

46. What specific steps are envisaged, in connexion with the development of a common agricultural policy, to improve the competitive position of agriculture?

47. Can it be accepted that in the formulation of their common agricultural policy the Member States will not aim at self-sufficiency to the detriment of the interests of third countries which are established suppliers of particular agricultural products?

48. In view of the importance of the method of implementation of the special agricultural regime and of the fact that the detailed provisions have yet to be developed by the agricultural conference, can the Member States suggest a satisfactory form of liaison with the GATT secretariat which will enable the contracting parties to be kept fully informed of developments?

49. GATT Article XXIV:8(a)(1) requires that "duties and other restrictive regulations of commerce ... are eliminated with respect to substantially all the trade between the constituent territories of the union". In the light
of these provisions, what proportion of the trade between the Member States would be subject to special restrictive trade arrangements under this Chapter of the Treaty?

50. How would the special provisions for regulation of imports of agricultural products be reconciled with the provisions of the GATT?

51. Should the operation of these systems result in Member States imposing or maintaining restrictions on imports from third countries contrary to GATT obligations, is it envisaged that waivers would be sought by Member States individually?

**Article 38**

52. Paragraph 1 provides for the inclusion of agriculture and trade in agricultural products in the common market, while paragraph 2 stipulates that certain special provisions of the agricultural chapter override the general rules of the Treaty. Among these special provisions are the following:

The establishment of a common organization for agriculture which may involve any necessary measures to implement the objectives of the common agricultural policies (Article 40(3)).

The setting up of special rules of competition to be determined by the Council (Article 42).

The introduction of minimum price systems allowing for quantitative restrictions (Article 44).

The introduction of long-term agreements which may impose upon members the obligation of applying quantitative restrictions among other measures, in order to ensure their fulfilment (Article 45).

(a) Do these special rules applicable to the agricultural sector provide for the elimination of restrictive regulations of commerce leading to the free movement of agricultural products within the area, and if so how?

(b) In regard to trade with the outside world are not these special rules and regulations even more restrictive than the temporary restrictions which the six member countries now have on their agricultural imports from third countries?

53. Will the existing policies of Member States with respect to imports from third countries be maintained until the entry into force of the common agricultural policy, or will Member States be expected to start aligning their separate policies towards third countries as soon as the Treaty enters into force?
Article 39 and 40

54. Article 39 sets forth the purpose of the common agricultural policy to be, inter alia, to stabilize markets, to guarantee supplies, and to ensure reasonable prices to the consumer. Article 40(3) spells out in more detail the measures to be taken to achieve these aims, in particular, price controls, subsidies on production and sale of various products, arrangements for stock-piling and carry-forward, and common machinery for stabilizing imports and exports.

(a) Does this not mean that the Treaty envisages, even after the transitional period, a regulated system for agriculture involving subsidies, controls and restrictions and that the system will not provide for the free movement of agricultural products within the Community?

(b) Is it not the case that such a system will afford protection to the respective national agricultures of the Member States vis-à-vis each other, and will increase the general level of protection vis-à-vis the outside world?

55. Are quantitative restrictions and other non-tariff devices to be used to introduce and subsequently implement the common agricultural policy?

56. How will the provisions of these Articles affect trade with third countries? How do the Member States intend to safeguard the legitimate trade interests of third countries?

57. Article 39(1)(a) refers to "un emploi optimum des facteurs de production". How would the Member States define the "optimum" for the purposes of this provision? What are the criteria by which it is to be judged? How is it likely to affect the volume of agricultural imports?

58. What is meant by the objective "de garantir la sécurité des approvisionnements" in Article 39(1)(d)? Do the Member States consider that supplies cannot be guaranteed by the free movement of agricultural products in international trade, and that the security of supplies must, therefore, be achieved by increased production within the Community?

59. What role will State-trading play within the framework of Article 40?

60. With regard to State-trading import monopolies: What arrangements will be made to ensure no discrimination in purchases? What arrangements will be made to ensure that protection does not exceed the level of the tariff? What commodities will be subject to such control?
61. Article 40(2) provides that a common organization for agricultural markets will be established in the form of a system of common rules to control competition, the compulsory coordination of the various national market organizations or a European Marketing Board.

(a) To the extent that it can be foreseen, which commodities will be subject to each of these forms of common organization?

(b) Can it be presumed that the compulsory coordination of the various national market organizations or the European Marketing Board will not give rise to a more rigorous regulation of the trade with third countries than would be compatible with Article XXIV:5(a) of the GATT?

(c) Will the compulsory coordination of the various national market organizations permit some variation in the national system? Will a Member State whose market for a particular product has been entirely free be required to introduce price controls, subsidies, etc.?

62. Article 40(3) provides for the use of various kinds of measures to achieve the aims specified in Article 39:

(a) What is implied by "stabilizing imports and exports", and what is the common machinery envisaged?

(b) What is the purpose, likely extent and form of administration of the price controls envisaged?

(c) Do these provisions mean that consumers in all Member States will obtain food products at the same price as soon as the compulsory coordination of national market organizations or a European Marketing Board has been established and that producers in all Member States will receive the same remuneration under either system of market organization?

63. What is the purpose of the "agricultural guidance and guarantee funds" provided for Article 40(4)? How will they be financed, and how are the funds to be utilized?

Article 42

64. What type of structural or natural conditions are envisaged as warranting the special protective measures which may be authorized by the Council in terms of this Article?
65. Articles 43(4) and 45(3) indicate certain circumstances in which raw materials may be imported from third countries. Is it contemplated that in other circumstances such imports will not be permitted? In particular, does this mean that imports of primary agricultural products from third countries for consumption in the Community will be totally prohibited when they are the subject of long-term agreements? If not, what arrangements are contemplated?

**Article 44 - MINIMUM PRICE ARRANGEMENTS**

66. What objective criteria will be used in fixing minimum prices? What countries and commodities will be involved?

67. Do Member States envisage the need to operate quantitative restrictions against third countries as the corollary of the limitation on freedom of movement of agricultural products among themselves involved in the operation of these minimum price arrangements?

(a) Would such restrictions take the form of similar minimum price arrangements or of simple quota restrictions?

(b) If either of these two methods is envisaged, how do the Member States reconcile the use of such restrictions with their obligations under the GATT?

(c) In view of the provisions of paragraphs 4 and 5(a) of Article XXIV of the GATT, can the Member States give an assurance that insofar as the use of quantitative restrictions against third countries is envisaged there will be no question of imposing new restrictions or of intensifying existing quantitative restrictions?

(d) How would the Member States propose to operate any quantitative restrictions against third countries that may be contemplated so as to ensure that the preference accorded thereby to each other's trade in agricultural products would not exceed the preference automatically created by the reduction of internal tariffs and the introduction of the common tariff?

68. Do the Member States envisage that quantitative restrictions may be imposed by one Member State against imports from other Members? If so, will the restrictions be applied to member and non-member countries on a non-discriminatory basis?

69. Is it not the case that, to the extent that quantitative restrictions are imposed, the minimum price system will tend to stimulate uneconomic production within the Community?
70. (a) Under the second form of price control (paragraph 1(b)), imports will be permitted if their prices are higher than the minimum prices established for the product concerned before customs clearance. Does this not mean that imports from third countries will be at a disadvantage not only because they must be higher than the relevant minimum prices but also because they must be higher by the full amount of the tariff?

(b) Under this control, will the minimum price remain stable or, as the customs tariffs are gradually abolished, will it be increased to a corresponding degree?

71. During the transitional period is it proposed that imports from third countries will be freely admitted when the market price is above the minimum price? If not, what would be the reason for such discrimination as the system of minimum prices seems to give the importing countries all the possibilities of protecting their own price level against outside competition?

72. If the application of the policy should result in prices of some commodities being maintained at levels higher than those prevailing on world markets, is it the intention to overcome this disadvantage by means of export subsidies on goods processed or manufactured from such commodities?

73. What is the meaning of "natural preference" in paragraph 2?

74. Will minimum price arrangements be employed only during the transitional period? If so, what system will replace the minimum price system?

**Article 45**

This Article provides for the negotiation of agreements and long-term contracts in the transitional period pending the establishment of one of the forms of common organization.

75. Is a Member State legally bound to conclude agreements or contracts if the conditions set out in paragraph 1 are met?

76. What principles will be applied to imports from third countries in cases where long-term contracts are concluded under paragraph 2?

77. In negotiating long-term agreements will Member States give equal opportunities to bids for participation in such agreements to suppliers from third countries and will the agreements be concluded solely on the basis of normal commercial considerations?
78. How will the trade interests of third countries, including countries which export products in relatively small quantities, be safeguarded, and can assurances be given that they will have the opportunity to supply an equitable share of the requirements of the Community?

79. To the extent that imports from third countries are required would these be procured by the national marketing agencies or through normal commercial channels?

80. Would all Member States be required in every case to procure their requirements of the commodities concerned by means of long-term contracts arranged by their national marketing agency?

81. Is it envisaged that Member States will resort to quantitative restrictions (whether on private trade or made effective through State-trading) in order to safeguard long-term agreements?

82. In view of the provision that the prices in the long-term purchase agreements are to approach progressively those paid to national producers in the home market of the purchasing country, how is it intended to avoid the equalization of prices at an unduly high level?

83. Will agreements or long-term contracts be negotiated between surplus and deficit countries of the Community?

84. What arrangements are contemplated, particularly as regards import policy, to give effect to contracts or agreements affecting trade in raw materials?

85. Will agreements and long-term contracts be employed as part of a common agricultural policy beyond the end of the transitional period?

ANNEX II

86. By what standards have the products listed been selected? By what standards will other products be added to this list?

87. Is it the intention to apply the special provisions of Articles 38-47 to all products listed? If this is not intended, on what basis will these provisions be applied to particular products and what arrangements are proposed for specifically tropical products (e.g. copra, cocoa and coffee)?

88. The Annex includes certain commodities, which appear to be produced only in one of the countries of the Community or only in their associated territories. It follows that in such cases there can be no problem of protection for those members of the Community which do not produce the commodities in question against imports from the producing member. Can the Member States give an assurance that quantitative restrictions
(whether applied to private imports or operated through national organizations or through the central organizations to be set up within the customs union under Article 40) will not be used in respect of such commodities except where the individual country employing the restrictions is entitled to do so on balance-of-payments grounds? Can they further give an assurance that no arrangements will be adopted in connexion with these commodities which would have the effect of giving a preference within the customs union in excess of the tariff preference?
VI. BALANCE OF PAYMENTS

(Articles 104 to 109)

Articles 104-109 provide that Member States will deal with balance-of-payments difficulties through a variety of economic and financial measures including mutual aid and will have recourse to import restrictions among themselves only as a last resort requiring approval of the Council.

89. (a) Having in mind the GATT obligations with respect to the non-discriminatory use of quantitative restrictions, do these provisions mean that Member States are in effect undertaking to renounce the use of quantitative restrictions against any countries as a technique for dealing with any future balance-of-payments difficulties, unless they obtain special permission from the Council to impose such measures within the Community?

(b) Or does this mean that a Member State which finds it necessary to reimpose quantitative restrictions to deal with an overall balance-of-payments emergency would in the ordinary course of events apply these in a discriminatory manner, that is only against third countries?

(c) If the difficulties of the Member State arise from the elimination of restrictions on the movement of goods and capital within the Community, will the situation be corrected by tightening restrictions on imports from third countries?

(d) Do these provisions mean that a Member State which finds it necessary to reintroduce import restrictions to achieve a certain reduction in its exchange outlays would apply more severe restrictions against third countries than would be the case if it were not precluded from imposing quantitative restrictions in a non-discriminatory manner, that is against all countries including other Member States?

(e) If restrictions are to be imposed on imports from third countries, will these countries be consulted?

90. When consideration is being given to the imposition of quantitative import restrictions will this be based upon a common balance of payments for the Community including the associated territories, on a common balance of payments excluding the associated territories, or if for these purposes the balance of payments of each Member State will be considered separately will the balances of payments of associated territories be taken together with those of the Member States with which they have special relations? May it be presumed that each Member State will continue to have a separate quota in the International Monetary Fund?
Article 106 provides for the progressive abolition of payments restrictions within the Community, prohibits the imposition of new payments restrictions between Member States and refers to measures which the Member States may take in concert to facilitate the attainment of these objectives.

91. (a) What specific measures are contemplated in paragraph 4?

(b) Should a Member State which finds itself in difficulty impose exchange restrictions, is it correct to assume that the measures referred to in paragraph 4, which Member States can concert to take, will in no circumstances include the imposition of parallel exchange restrictions on the part of other Member States not experiencing balance-of-payment difficulties?

Article 107 deals with exchange rates and provides that should a Member State make any alteration in its exchange rate which is incompatible with the objectives of the Treaty, the Commission may authorize other Member States to adopt retaliatory measures.

92. Since a Member State wishing to alter its exchange rate is under obligation to submit the matter to the International Monetary Fund should Article 107 be interpreted as meaning that the Commission could authorize other Member States to adopt retaliatory measures only in cases when a Member State may have altered its exchange rate without having obtained the approval of the IMF?

Article 108 provides for various kinds of assistance which a Member State faced with balance-of-payments difficulties can receive from other Member States. Such assistance may, inter alia, take the form of credits, of concerted action in seeking the co-operation and assistance of international organizations, and of measures designed to prevent the diversion of trade.

93. (a) Does the Treaty envisage that a Member State might be expected to impose or intensify quantitative restrictions against third countries, regardless of its own external financial position, as one form of "mutual aid" intended to facilitate increased imports from a Member State in difficulty?

(b) What measures are contemplated to prevent diversions of trade? Could such measures include the imposition of quantitative restrictions against third countries corresponding to those adopted by the Member State in difficulty?
(c) Could trans-shipment controls in the form of export prohibitions be imposed, or is the use of such controls prohibited by Article 34?

(d) If restrictions such as those referred to in (a), or (b) above are to be imposed, will third countries be consulted?

(e) Will credits granted under paragraph 2(c) be as transferable as the balance in the currencies of the donating members?
VII. COMMERCIAL POLICY

(Articles 110 to 116)

94. Sole powers for conducting trade negotiations on behalf of the Community with third countries is conferred on the Commission. Is it the intention that representations from third countries, with respect to aspects of the common commercial policy which affect their export interests in particular Member States, should be addressed to the Commission, or should such representations continue to be directed to the governments of the Member States concerned? Will individual negotiations be permitted to the extent that resultant concessions do not affect the duties of the common tariff?

95. During the transitional period, what will be the position regarding:
(a) existing bilateral trade or tariff agreements between third countries and Member States, and (b) the renewal of such agreements? What will be the procedure for renewal of existing bilateral agreements or the negotiation of new ones?

96. Would the Member States be ready at any time to enter into negotiations for tariff concessions if so requested by a contracting party and to participate in any general round of negotiations arranged by the CONTRACTING PARTIES?

97. Would the Member States agree that contracting parties are entitled to compensation in respect of GATT concessions which are impaired by the elimination of duties on imports from other Member States?

98. Article 111 provides that during the transitional period Member States shall aim at securing uniformity in their liberalization lists with respect to third countries; Article 113 provides for the standardization of liberalization measures with respect to third countries at the end of the transitional period.

(a) Should these provisions be interpreted to mean that a Member State is expected to determine its system of quantitative restrictions on the basis of the balance-of-payments and reserves position of other Member States rather than on its own external financial position?

(b) Would a Member State not imposing restrictions for balance-of-payments reasons be expected to introduce restrictions against third countries because one or more Members maintain import limitations related to their balance-of-payments position?
(c) Would a Member State experiencing an improvement in its external financial position, and hence required under its prior international commitments to relax or eliminate its import restrictions, be expected not to relax or eliminate such measures as long as one or more Member States were maintaining restrictions for balance-of-payments reasons?

99. (a) What is the significance of the phrase "at as high a level as possible" in Article 111(5)? If some Member States have liberalized a particular product and others still maintain quantitative import restrictions for balance-of-payments reasons, is it the intention that the product in question will be liberalized by the Member States which now restrict its import?

or

that it will be de-liberalized by those Member States which at present have no restrictions on their imports (i.e. that they will impose quantitative restrictions which are not necessitated by their own balance-of-payments position)?

or

that each Member State will continue its individual import régime based upon its balance-of-payments needs?

(b) What does the provision for "identical treatment" in Article 111, paragraph 5 mean? For example, to take the extreme case, if an item were already completely liberalized for Member States but not for third countries, then would liberalization of the item for third countries require a corresponding improvement in the position of the Member States?

100. In achieving uniformity of liberalization lists, by what standards will differential treatment be established for third countries or groups of third countries?

101. Is the Commission empowered to make objections to steps which Member States propose to take to abolish or reduce quantitative restrictions vis-à-vis third countries?

102. What types of situation were envisaged which would make Article 115 operative?
103. The Treaty absolves the associated territories from the full obligations which the Member States have themselves undertaken. This appears to involve some deviation from the concept of a complete customs union or free-trade area. On what provisions of Article XXIV of GATT do the Member States base these arrangements? If they are not based on the provisions of Article XXIV, what justification is there for this deviation from the provisions of Article I of the GATT?

104. The tariff arrangements which will apply in the associated territories with respect to imports from Member States appear to involve an extension of preferences. Would the Member States (or the territories themselves) be prepared to compensate third countries for such extension of preferences by means of approximately equivalent concessions?

105. Bearing in mind the extent to which these provisions are liable to affect the trade of third countries, particularly of countries whose economies are still in course of development or which are largely dependent upon exports of primary products, how do the Member States propose to mitigate the effects of these provisions so as to ensure fair treatment for third countries and as between third countries? What steps could be taken to enable such countries to maintain their traditional exports to Member States? For example, could low-duty or duty-free quotas, based on present trade volumes, be granted for the importation of such products?

106. Would it be possible in the near future for the Member States to furnish some indication of the programme of agricultural development in their overseas territories?

**Article 131**

107. Is the association of overseas countries and territories with the Community to be on the basis of the overseas countries and territories becoming, ultimately, full members of the Customs Union? What is proposed for the tariffs of these countries and territories vis-à-vis third countries?

**Article 132**

108. Paragraph 4 provides that the nationals of Member States shall be entitled to participate on equal terms in any development in the overseas territories financed by the Community. Does this mean that the nationals of third countries will be precluded from participating on equal terms in tendering for the supply of goods for such development?
Article 133

109. Since the customs duties authorized by paragraph 3 will be of a protective or revenue nature, is it envisaged that these duties will be non-discriminatory vis-à-vis third countries as well as Member States?

Article 134

110. What situation is envisaged in this Article?

111. Is it the intention of this Article that in cases where third countries, on account of specific cost advantages, are able to compete successfully in the markets of the associated territories to the possible detriment of Member States, steps are to be taken to curb such competition and, if so, how is this far-reaching discrimination to be justified?

112. Could the operation of these provisions result in the harmonization of the rates of duties in the territories on imports from third countries with the external tariff of the Community?

113. Could these provisions be applied in such a manner that territories which are at present excluded from reducing duties on imports from Member States in terms of Article 133 may, nevertheless, be required to impose duties on imports from third countries at the rates which apply in the other territories?

Annex IV

114. The list of countries and territories includes trust territories. How does this provision conform with the obligations ensuing from Chapter XIII of the United Nations Charter and other obligations towards the United Nations, particularly as regards equal treatment of all Members of the United Nations in the economic and commercial field?

Applicative Convention

115. Article 1 provides for a Development Fund for the territories. On what basis is the financial aid to be given to the territories linked with the grant of tariff and quota preferences to the products of the Member States in the markets of these territories?

116. What protection is afforded third countries that any specific development projects to be financed in accordance with Article 3 will take into consideration the relationship between such projects and the traditional trade interests of third countries?
117. Will the provisions of Article 11, which provide for increases in the quotas for imports from Member States, affect the size of import quotas granted to third countries? How is it proposed to safeguard the trading interests of third countries?

118. Do the tariff reductions by the associated countries and territories continue even though the Convention may have expired?
IX. ARTICLE 234

Article 234 provides that the rights and obligations resulting from other international agreements are not affected by the provisions of the Treaty. This Article further provides that where there is any conflict between such other agreements and the Treaty, the Member States will resort to all appropriate measures to eliminate such conflict, including, if necessary, the adoption of a common attitude to this end.

119. Does this mean that the GATT and other international agreements, such as the Articles of Agreement of the IMF and GEEC, which govern the trade and financial relations between each of the Member States and many other countries throughout the world, take precedence over the Treaty?

120. If the CONTRACTING PARTIES to the GATT determine that there is a conflict between any provision of the Treaty and the GATT, does this Article mean that the Member States will take all appropriate measures to modify the interpretation and application of the Treaty in order to conform with the GATT?

121. Similarly, if the Member States, in order to apply certain provisions of the Treaty, seek to obtain a waiver of certain GATT obligations or of other international obligations, such as those of the IMF, and if the international organization in question does not grant such a waiver, are the Member States relieved of the relevant obligations under the Treaty?

122. If the Member States seek a waiver of GATT obligations, would the application be made by individual governments or by the Community as a whole?

123. In cases where the Treaty provides that the institutions of the Community have discretionary powers with respect to matters on which provisions of the GATT or of other international agreements, such as the IMF and GEEC, apply (e.g., the imposition or maintenance of quantitative restrictions, exchange restrictions, etc.) is it the case that any decisions taken by the institutions will be subject to the provisions, requirements and procedures of these international agreements?
X. MISCELLANEOUS QUESTIONS

124. Under Article 85 all agreements and mergers which might interfere with competition within the common market are prohibited. Does the Interim Committee interpret any of the provisions of the Treaty as providing an assurance that the trade of the Community with third countries will be conducted on a competitive basis and not distorted by the activities of monopolies or cartels? What would be the outlook of the Member States on the question of providing machinery for examination of difficulties which third countries may experience in this connexion?

125. Article 238 provides that the Community may, by unanimous vote of the Council after consulting the Assembly, conclude with a third country an agreement "creating an association characterized by reciprocal rights and obligations, joint action and special procedures".

(a) Would it be possible for a third country to negotiate for an association with the Community on the basis of securing specified treatment of its exports of agricultural products to the Community in return for concessions on imports into its territory of products of the Member States?

(b) Could such an association also provide for participation of the third country in the common institutions of the Community, e.g. the Commission dealing with the common agricultural policy?

126. How can this Protocol relating to certain Provisions of Concern to France be reconciled with the Resolutions of the CONTRACTING PARTIES concerning the French special temporary compensation tax on imports?

127. If conventions for economic association with the Community are concluded, pursuant to the Declarations of Intention, with the independent countries of the franc area, Libya, Somaliland, Surinam and the Dutch West Indies will their provisions be similar to those of Part IV of the Treaty?

128. Does the Treaty allow a Member State to decide for itself to observe the principle of equal treatment in its commercial relations with the individual contracting parties to GATT?

129. What steps will be taken to ensure that the implementation of the Treaty does not result in the raising of barriers to the trade of other contracting parties, contrary to the provisions of Article XXIV:4 of GATT, and what remedial measures do Member States or the Community intend to take if there occurs serious diversion of trade to the detriment of third countries? In particular can a third country which is a traditional supplier of certain products be assured that a discriminatory barrier will not be raised and that its market will not be lost in the event that the products in question are produced in surplus by another Member State.
130. According to the Preamble to the Treaty, the Member States are "resolved to establish the foundations of an ever-closer union among the European peoples" and wish to ensure the progress of their countries "by common action in abolishing the barriers which divide Europe". What measures are proposed which would abolish the barrier dividing Europe and would ensure an ever-closer union of all European countries irrespective of the attained level of economic and industrial development and of their social and economic systems? What measures does the Treaty envisage to ensure that its implementation will not increase the barriers which divide Europe and prevent a closer economic cooperation of all, especially of European countries.

131. Will any of the institutions of the Community admit representatives of third countries as observers at their meetings?

132. As the Treaty gives only the general objectives and the framework of the proposed European Economic Community, the CONTRACTING PARTIES will be concerned to ensure that the Treaty is implemented in conformity with the letter as well as with the spirit of the GATT. Would the Member States agree to keep the CONTRACTING PARTIES informed in advance of all important developments and afford an opportunity for discussion of any pertinent issues before final decisions are taken by the institutions of the Community, and to submit an annual report on action taken by the Community and by the Member States? Can the Member States give an assurance that all measures requiring waivers under the GATT will be referred to the CONTRACTING PARTIES before they are put into effect?