Question No. 1 (United Kingdom)

Given that the duty on cocoa in three of the constituent territories is nil and in one is 10 per cent and that the duty in the common tariff is 9 per cent, it is presumed that the territory which has a duty of 10 per cent would reduce it to 9 per cent at the end of the fourth year after the date of entry into force of the Treaty in accordance with paragraph 1(a) of the Article. Would it be correct to assume that the three other territories would raise duties in three stages, first presumably to 2.7 per cent, and then to 5.4 per cent and finally to 9 per cent, over a longer period in accordance with paragraphs 1(b), (c) and (d) of the Article?

Reply

The conventional or autonomous duties on raw cocoa beans are 5 per cent in Italy, 10 per cent in Germany and Benelux and 25 per cent in France.

The duties in fact applied on 1 January 1957, which, pursuant to Article 23 of the Treaty, are the basic duties to be taken into account with a view to the progressive introduction of the duty under the common customs tariff, were 10 per cent in Germany and 6 per cent in the other constituent territories of the Community. The duty under the common customs tariff is 9 per cent (List F annexed to the Treaty).

In these circumstances and pursuant to Article 23 of the Treaty, the answer to the question is in the affirmative, subject however to the possibilities which Article 24 of the Treaty provides.

Question No. 2 (United Kingdom)

In answer to Question 103 in L/656 it is stated that implementation of the general objectives concerning the abolition of restrictions on exchanges between Member States and the overseas countries and territories must in the end produce a free-trade area which will, subject to the time factor arising from the considerations referred to earlier in the answer, be complete. Is it possible to indicate more precisely the period within which the abolition of the restrictions imposed on exchanges between Member States and the overseas countries and territories would be complete?
Reply

With regard to the abolition of customs duties and quantitative restrictions still imposed on products originating in the overseas countries and territories, on their entry into Member States, the period within which the free-trade area is to be established is clearly stated by the Treaty. In accordance with Article 132 of the Treaty and Article 10 of the Implementing Convention relating to the association of the overseas countries and territories, the elimination of barriers to trade will be complete by the end of the transitional period under the same procedure as that which is provided for the elimination of barriers to trade between the Member States themselves. The period within which the obligations imposed on the overseas countries and territories by the establishment of the free-trade area must be fulfilled, is explained in detail in the "Supplementary Memorandum concerning the Treaty establishing the European Economic Community" (L/728), to which reference may usefully be made.

Question No. 3 (Australia)

It is assumed that in determining the method of arriving at the common external tariff the Six countries considered a number of alternatives before deciding to adopt the arithmetical average of the duties of the Six countries.

We would like to know whether it would be possible for the Interim Committee to make available samples of the results of their calculations on the basis of any alternative methods they may have considered in arriving at the common external tariff.

Reply

The provisions of Article XXIV:5(a) of the General Agreement require that the duties imposed at the institution of the union in respect of trade with contracting parties not parties to such union shall not on the whole be higher than the general incidence of the duties applicable in the constituent territories prior to the formation of such union. By this wording, the CONTRACTING PARTIES wished to permit a great deal of liberty in the choice of the method used to establish the common customs tariff; this intention is stated in an unequivocal manner in document E/Conf.2/C.3/78 of the Havana Conference, which was the basis for Article XXIV:5.

Before deciding on the method to be used for arriving at a common tariff, the Member States therefore considered all the possible procedures, and finally adopted the method of the arithmetical average of the duties of the four tariffs.

In order, however, to adhere even more closely to the provisions of Article XXIV:5, important adjustments were made to this method: for the majority of products, the computation is based not on the conventional or autonomous duties, but on the duties in fact applied on 1 January 1957; furthermore, ceiling rates have been fixed for products included in Lists B, C, D and E annexed to the Treaty.
Question No. 4 (New Zealand)

Article 43, paragraph 3, provides that the common organization may be substituted for national organizations by a qualified majority vote on certain conditions. One of the conditions is set down in paragraph 3(a).

What would be the effect of the phrase in that paragraph: "due account being taken of the time-factor in respect of possible adjustments and of necessary specializations;"? Does it mean that when the equivalent guarantees are first offered they would be modified "by due account being taken ..." or would it mean that in the first place the equivalent guarantees offered would be fully equivalent?

Reply

The phrase "due account being taken of the time-factor in respect of possible adjustments and of necessary specializations" in Article 43, paragraph 5 of the Treaty should be interpreted as meaning that the equivalent guarantees offered by the common organization of the market in question must first be established, due account being taken of possible adjustments and necessary specializations resulting from the transition from a national market to the common market.

Question No. 5 (Japan)

Will the common tariff of the European Economic Community be a single-column tariff the duties of which will be applicable to all the contracting parties to the GATT which are not signatories of the Treaty of Rome?

Reply

The provisions of the Treaty will result in the establishment of a common customs tariff with a single column. However, it is not possible to foresee what trade system the Community institutions will adopt, taking into account the international agreements to which the Member States are parties in regard to all third countries.

Question No. 6 (Japan)

What assurances can be given that, upon the establishment of the Community, the quantitative restrictions applicable to trade with contracting parties which are not signatories of the Treaty of Rome will not on the whole be more severe than the general incidence of the quantitative restrictions applicable in the territories of the Six signatory countries before the entry into force of the Treaty of Rome?

Reply

The policy followed by the Community in this connexion will be in accordance with Article 234 of the Treaty, within the context of the international obligations undertaken by the Member States, and will therefore be in conformity with the requirement of Article XXIV:5 of the General Agreement that the regulations of commerce imposed at the institution of a customs union shall not on the whole be more restrictive than those applicable in the constituent territories prior to the formation of such union.
Furthermore, Article 110 of the Treaty states that the Member States intend to contribute to the progressive abolition of restrictions on international exchanges. In particular, Article 111 declares that the Member States shall aim at securing uniformity between themselves at as high a level as possible of their lists of liberalization in regard to third countries or groups of third countries.

Question No. 7 (Czechoslovakia)

Binding of common tariff duties

The conventional duties of the Member States which are included in the four schedules annexed to the General Agreement will be replaced, at a given moment, by the common customs tariff duties. It is important to know in what way the tariff bindings which existed prior to the formation of the Community will continue to exist in the common tariff after that date. In our opinion, it would be impossible for the mere fact of the formation of a customs union to annul any binding agreed upon under the General Agreement, even if it were at a level different from that formerly existing. Nevertheless, all the statements and replies made by the representatives of the Common Market declared that the new duties laid down by the common tariff would be liable to tariff negotiations on the basis of the principles set out in the General Agreement, that is to say, through the granting of reciprocal concessions (see, for example, the reply to Question 8).

However, in the case of certain products for which a State enjoys bound rates of duty in the schedules of one or more States, if that State did not deem it necessary to enter into negotiations with the Common Market, a formula would have to be found so that the respective duties under the common tariff would be considered to have been bound without a new concession being granted in exchange, while being subject of course to the rules of Article XXVIII and the other provisions of the General Agreement. If negotiations were to take place, the Community could therefore only claim a concession in exchange if it granted a real reduction in duty below the level recognized by the CONTRACTING PARTIES as representing the average incidence of the duties formerly applied.

Are the Member States prepared to recognize the obligations as stated above?

How do they propose that the question should be settled for the transitional period?

Reply

The implementation of the provisions of Article XXIV:5 arouses complex and difficult problems. Consequently, consultations can be held with the contracting parties as soon as the Community institutions are established in order to examine the way in which these provisions will be complied with.
Question No. 8 (Czechoslovakia)

Calculation of common tariff duties

As the basis for calculating the duties of the common tariff, the Member States have chosen the arithmetical average of the duties applied in the four customs territories on 1 January 1957 (with certain exceptions); it would appear that they are satisfied that in selecting this method they have respected to the full the obligations laid down by Article XXIV of the General Agreement (see, for example, the reply to Question 13). The Czechoslovak delegation is of the opinion that the use of the arithmetical average is far from being in accordance with the sense of Article XXIV:5(a), for it does not correspond to the actual incidence of duties on goods imported into the various constituent territories of the customs union. The weighted average would meet the intention of that provision more closely, and would in many cases result in a rate lower than the arithmetical average, for in general products subject to a high rate of duty were always imported in smaller quantities than those subject to a low rate of duty. A number of trial calculations have been made, and they have shown that—in the case of products exported by Czechoslovakia to the Member States—the rates of duty corresponding to the weighted average would be lower than those based on the arithmetical average. The same is no doubt true of the exports by other third countries. There is consequently a considerable worsening of the situation of third countries.

Are the Member States prepared to alleviate this, in particular by taking as a basis the lower rates of duty calculated according to the weighted average?

Reply

Reference should be made to the reply to Question 3.

Question No. 9 (Czechoslovakia)

Taxes on imported goods

In computing the turnover tax levied on imported goods, the customs duty is normally added to the value of the goods. In view of the fact that goods imported by one Member State from the territory of another Member State will be free of customs duty—and during the transitional period will be subject to a reduced rate of duty—while goods imported from third countries will be subject to customs duty at the normal rate, the amount of the turnover tax would be higher for goods from third countries than for those from Member States. The result would be a sort of additional discrimination which would, moreover, not be in accordance with the principle of equality of treatment in the application of taxes and charges which is set forth in Article III of the General Agreement. For instance, in the case of motor vehicles, which are subject to a common tariff duty of 28 per cent, the turnover tax would be increased as follows: in the Federal Republic of Germany (rate of tax: 6 per cent) by 1.7 per cent, in the Netherlands (rate of tax: 17.6 per cent) by about 5 per cent.

What steps do the Member States envisage in order to remedy this situation?
Reply

In computing the turnover tax levied on imported goods, the amount of the customs duty is added to the value for customs purposes of the goods. This practice is perfectly logical since, on the one hand, the effect of levying customs duty is precisely to afford to the imported product the treatment which products of domestic origin receive and to enable it to compete with them, and, on the other hand, the turnover tax is levied on the price of the goods when sold on the domestic market, regardless whether the goods are imported or of national origin. Indeed there is nothing in the provisions of Article III of the General Agreement to prevent this procedure, which is moreover very generally applied by contracting parties.

It can, therefore, not be said that the turnover tax will be applied in a discriminatory manner to the advantage of the Community countries, since the amount of the tax will be calculated for every country according to the same rules.