The consultation on tobacco which was requested by the Government of the Federation of Rhodesia and Nyasaland was held in Geneva on 23 October and 4 and 17 November 1958. The following countries took part in the consultation:

- Federation of Rhodesia and Nyasaland (which had requested the opening of the consultation)
- Brazil, Canada, Cuba, Dominican Republic, Greece, India, Indonesia, Turkey and the United States (which had asked to take part in the consultation)

The European Economic Community was represented by the delegates of the Member States and of the Community institutions.

At the outset, the Head of the German delegation, acting as spokesman for the Six, referred to the framework within which the consultation was to take place. In particular, he made it clear that under the procedure agreed upon by the Intersessional Committee and accepted by the Six in the letter addressed to the Chairman of the Contracting Parties by the President of the Council of Ministers of the ESC, the consultations were to deal with specific cases arising out of the application of the Rome Treaty.

Insofar as the consultation procedure was concerned, a number of representatives of third countries, and especially the representative of the Dominican Republic, felt that to limit the consultations to specific cases was contrary to the conclusions of the Intersessional Committee and to Article XII of the General Agreement under which the consultations were being held. According to these representatives the consultation should also cover cases of threatened damage. Consequently, these representatives made certain reservations in this respect.

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1 This summary record, prepared by the Council of the European Economic Community, has been translated by the GATT secretariat. The French text has been distributed to the participating governments under the EEC symbol 1265/1/58.

MGT(59)3(b)

English only
Irrespective of the problem of the proper framework for the consultations, the discussion was based on the documents produced by both sides, which included:

(a) A memorandum addressed to the six Member Countries of the EEC by the Federation of Rhodesia and Nyasaland and dated 16 August 1958.

(b) Two declarations made by the Six in reply to the latter document and dealing with the method followed for the computation of the external tariff rate on tobacco together with tobacco production in the Associated Overseas Territories (Annexes I and II).

(c) A series of notes prepared by the expert attached to the United States delegation, dealing with the different technical questions raised by the consultation.

The discussions dealt mainly with the following matters:

(a) The computation of the external tariff rate on tobacco.

(b) The French and Italian state monopolies.

(c) The effects of the protection accorded to coffee producers within the Community.

A. THE COMPUTATION OF THE EXTERNAL TARIFF RATE ON TOBACCO

The representative of the Federation of Rhodesia and Nyasaland, supported by the representative of India, requested that the Six should indicate what factors had been taken into account in establishing the 30 per cent ad valorem import duty on tobacco.

The spokesman for the Six replied that, although this point lay outside the scope of the consultation, the Six were nevertheless prepared to show their cooperation by supplying the delegates with the information required. (This information is reproduced in Annex I to this document.)

B. THE STATE MONOPOLIES WITHIN THE COMMUNITY

The representative of the Federation of Rhodesia and Nyasaland asked whether the Six considered that the Italian and French state monopolies were of a purely fiscal nature or whether their purpose was also to afford protection to tobacco producers in the countries concerned.
The spokesman for the Six declared that these State monopolies were not only of a fiscal nature but also involved a certain element of protection.

The representative of the Federation of Rhodesia and Nyasaland asked for further clarification concerning the future policy of the French and Italian monopolies. The representatives of the Six replied that this did not constitute a specific and urgent case and that the monopoly policy would be the object of more detailed studies to be initiated at a later date.

C. THE EFFECTS OF THE PROTECTION ACCORDED TO TOBACCO PRODUCERS WITHIN THE COMMUNITY

The representative of the Federation of Rhodesia and Nyasaland asked the Six to indicate what arguments and evidence they could put forward to show that the proposed rate of 30 per cent would not adversely affect the interest of the parties concerned, as compared with the existing tariff on imports into the territory of the Six, taking into account:

(i) the existing tariffs on imports of tobacco into the Six Community countries;

(ii) the possibility of sharing in the growing demand in the countries concerned; and

(iii) the equality of treatment as between the parties concerned on the one hand and the members of the EEC and the overseas countries and territories on the other.

The spokesman for the Six again stressed that no relevant information would be withheld, but pointed out that the delegate of the Federation of Rhodesia and Nyasaland was dealing with the problem in the reverse order. The onus of proof did not lie with the Six, and it was incumbent upon the countries requesting the consultation to show the existence of imminent damage in specific cases arising out of the application of the Rome Treaty.

The representative of the Federation of Rhodesia and Nyasaland referred the Six to his country's development plans and asked whether a reduction of development prospects constituted, in their opinion, a specific case of damage.

The spokesman for the Six stated that any check on economic expansion could be regarded as a case of concrete damage only if it could be proved that it resulted from the establishment of the Common Market.

The representative of the Federation of Rhodesia and Nyasaland then asked whether a diversion of trade would, according to the Six, constitute a case of concrete damage.

The spokesman for the Six declared that it was impossible to give a categorical answer to that question since the effects of a diversion of trade could only be assessed on a case-by-case basis.
The representative of the Federation of Rhodesia and Nyasaland inquired whether the Six were in a position to supply information upon the official development plans for tobacco growing with reference to:

(a) The AOT's

(b) European producers, especially in France and Italy.

The representatives of the Six replied that there were no official development plans in the countries of the Community.

The representative of the Federation of Rhodesia and Nyasaland then asked why the EEC had established such a protective tariff rate since there was no intention of introducing a development plan designed to further production.

On this particular point, the spokesman for the Six replied that the reasons for which the governments of the Six had established this duty did not fall within the proper framework for the present consultation.

The delegations then examined documents submitted by the expert of the United States delegation.

The representatives of the third countries concerned accepted the conclusions contained in these documents and the representative of Turkey stated, in particular, that in his opinion these documents referred to specific cases of damage. In fact, this documentation revealed that tobacco manufacturers within the Community were already considering making certain changes in the types of mixtures they employed and that this would certainly have immediate repercussions upon the export trade of third countries.

The spokesman for the Six, while appreciating the work performed by the American expert, pointed out that many of the remarks in the American documents referred to anticipated production under conditions that were at this stage purely hypothetical. Further information relating to the quantities and proportions involved and, possibly, also to the parties affected, would be necessary before such remarks could be taken into consideration.

The United States expert stated that it would be difficult to supply certain information of a confidential nature obtained from private companies.

Furthermore, the misgivings referred to in this documentation concerned production in the AOT's and in Italy and the possibility of its displacing imports from third countries. In this respect the private development plans for production in the Belgian Congo and in French Equatorial Africa should be taken into consideration.

In addition, he drew attention to the rapid expansion of tobacco production in Algeria as compared with 1956 and even with 1957. He felt confident that tobacco grades produced in the United States had already been affected by the implementation of the Rome Treaty, and stated that he could supply figures in support of this contention.

At the conclusion of these meetings in the course of which the six considered that the third countries concerned had been unable to supply adequate evidence as to the existence of specific cases, it was agreed that contacts should be maintained and that a second series of consultations on tobacco would be held after 16 February 1953, at a date to be established later.
ADDENDUM INFORMATION SUPPLIED BY THE SPOKESMAN FOR THE SIX
IN REPLY TO THE REQUEST BY THE REPRESENTATIVE OF RHODESIA AND
NYASALAND DURING THE FIRST MEETING OF THE TOBACCO CONSULTATION

1. THE FACTORS TAKEN INTO ACCOUNT BY THE SIX IN ESTABLISHING THE
30 PER CENT DUTY ON TOBACCO

It will be remembered that the duty on tobacco was the result of
negotiations and not of an arithmetical average.

For technical reasons the latter method would have been extremely
difficult to apply, since in France and Italy protection was accorded not
by means of the customs tariff but as a result of the existence of State
monopolies. Considering that this protection can be said to be total,
complete or absolute, it would seem meaningless to seek a fictitious
tariff equivalent for the sole purpose of computing an arithmetical
average. However, if this is to be done, very high rates, amounting to
at least 50 per cent, would have to be selected. The computing of a
common customs tariff rate by the method of the arithmetical average,
which the Six considered meaningless in the present circumstances, would
thus yield a rate exceeding 30 per cent.

The countries of the EEC preferred to agree upon a 30 per cent
duty which they felt took into consideration the various interests
involved.

2. THE BINDING OF EXEMPTION FROM DUTY FOR FRENCH IMPORTS OF LEAF TOBACCO

This "exemption" of "duty" insofar as imports by the French Tobacco
monopoly were concerned, was bound towards a number of countries in 1947,
and a similar binding has also been undertaken by Italy.

However, as has been stated above, France obtained the protection
she desired by non-tariff methods. This fact did not escape the atten-
tion of those who negotiated with France in 1947, since they did not rest
content with the binding of the exemption from duty which left the French
market fully protected. They therefore secured from France an import
commitment of 15,000 tons of tobacco and additional variable quantities.

Therefore it cannot be argued from the existence of such exemption
that the arithmetical average should have been computed on the basis of
French and Italian duty rates equal to zero.

3. It should also be pointed out that the burden of proving that the
30 per cent duty would not cause prejudice to third countries does not
lie with the Six. It is always the complaining country, in this case
the Federation of Rhodesia and Nyasaland, that must substantiate its
claim, in this instance that of damage or threat of damage. The
Rhodesian request would thus lead to a reversal of the burden of proof,
and the members of the EEC thus regret that they are unable to give it
favourable consideration.
"The purpose of the following statement is to reply to the various arguments put forward by the Federation of Rhodesia and Nyasaland in this memorandum on the effects of the Rome Treaty on the tobacco trade.

As the main question is that of the preferential treatment to be accorded to the AOT's, to the detriment of third countries, it must be emphasized that the establishment of any free trade area inevitably entails a certain degree of preference for the constituent territories.

However, it is difficult to assess the extent to which such preference would stimulate production in the AOT's or even modify existing trade channels.

It should be noted at the outset that the 30 per cent duty established by the Treaty will be applied by very gradual stages, and that it will take at least twelve years for this duty rate to become fully effective.

The effects of its application can obviously only be assessed having regard to production and consumption data.

Insofar as production is concerned, the different varieties of tobacco fall into four main categories:

**ORIENTAL TOBACCO**

It is difficult if not impossible to grow this variety of tobacco in the AOT's, mainly on account of ecological factors familiar to experts.

At present this type of tobacco is not produced in the AOT's, and its introduction there does not appear to be contemplated.

Future prospects for consumption of this type of tobacco will depend largely upon future trends in consumers' tastes, and producers of traditional varieties would appear to have little to fear from the possibility of its being successfully introduced in the AOT's.

**FLUE-CURED TOBACCO**

This type of tobacco is mainly produced in the United States of America but is also to be found in a number of other countries, especially in Rhodesia.

Although more common, this type requires special attention, a certain amount of special and costly equipment and constant supervision both at the growing and manufacturing stages."
This type of tobacco is not at present produced in the AOT's, though it is possible that it may be in future years. However, the 30 per cent duty, which will only become fully effective after twelve years can hardly be considered as sufficient inducement for potential producers to make the necessary investments.

Even the total protection accorded by conditions of monopoly has not sufficed to foster an increase in production of this type of tobacco. Finally, availability of land and labour, which are important factors, should also be noted.

**DARK TOBACCO**

The Maryland tobacco produced in Madagascar, where this type has been grown for many years and in any case from well before the last war, can be included in this category. On the other hand, it is not without interest to note that, even before the War, Madagascar's total production of this type of tobacco amounted to 5,000 tons, and that this figure, consisting predominantly of Maryland tobacco, has not been exceeded.

Maryland tobacco contains less nicotine than the dark tobacco produced in the Federation of Rhodesia and Nyasaland, and if there were any danger of Rhodesian tobacco being displaced by tobacco produced in the AOT's, this would be due to the inherent quality of the tobacco rather than to consumers' tastes, for the latter tend slowly but surely to favour light tobacco.

**CIGAR TOBACCO**

At present this is only grown in small quantities in overseas territories. Production figures are given in the Report of the Working Party of the AOT's. Producers of this type of tobacco will certainly stand to gain more than other producers from the 30 per cent duty. However, for this variety to be grown a certain number of conditions, including, mainly, large financial investments are necessary, and this makes production difficult and even uncertain. Briefly, the other conditions include such factors as soil, climate, and labour, but, here again, what is important to note is that the monopoly protection has not been sufficient to foster any considerable development of this type of tobacco.

Finally, an attempt may be made to assess the long-term effects of the situation created by the Treaty of Rome, irrespective of consumption prospects.

In this respect the situation appears to offer prospects of assured and considerable development for future years.

Conservative estimates set the excess of consumption over production within the community and the AOT's at 7,500 tons for the period up to 1965.
There is virtually no chance of the very feeble production of the AOT's developing to a degree where it would displace or even threaten the established suppliers of the Six.

It may well be assumed that a considerable proportion of this increase will be obtained from third countries whose share in international trade would thus increase in terms of absolute value.

In conclusion, a study of the tobacco market together with the potential development of the AOT's gives no grounds for fearing any significant changes in existing trade channels, at least from the short-term view.

From a long-term view it is more difficult to forecast the extent to which these trade flows may be affected, for here habits and tastes of consumers, among many other factors that can only receive passing reference, are more likely than customs duties to affect the tobacco trade.

Finally, the prosperity that the Treaty will certainly bring about should be taken into consideration. The raising of the standard of living which may well be expected to result will increase the needs of the community and consequently create further outlets for third countries.

Insofar as the considerations put forward in the Rhodesian memorandum on quantitative restrictions and the agricultural provisions of the Treaty are concerned, it should be noted that these refer to mere possibilities that are mentioned in the Treaty. It would be premature to consider the results that their possible application might entail.