ARTICLE XXII CONSULTATIONS

CONSULTATION WITH THE EUROPEAN ECONOMIC COMMUNITY ON COCOA

1. The consultation on cocoa under Article XXII of the General Agreement with the European Economic Community which was held at the request of the Government of the United Kingdom and which opened in Geneva on 12 and 18 November 1958 was resumed in Geneva on 18, 23 and 24 January 1959.

2. The European Economic Community was represented by delegates from Member States and from the Community Institutions. Other contracting parties participating in the consultation were the United Kingdom, Brazil, Dominican Republic, Ghana and Indonesia. With the consent of the representatives of the European Economic Community the United States participated as an observer. The Chair was taken alternatively by a representative of the United Kingdom and by a representative of the European Economic Community.

3. The consultation was carried out in the light of previous discussion within the framework of the General Agreement on the association of the overseas territories of the Six with the European Economic Community, and of discussion at the previous consultation under Article XXII.

COMMON EXTERNAL TARIFF

(a) Implementation of the Common Tariff

4. Representatives of the Community provided the following information about changes within the Member Countries in the tariff on cocoa beans since the previous consultations:

(i) Import duty on cocoa beans prior to 1 January 1959:

<table>
<thead>
<tr>
<th>Country</th>
<th>Legal Duty</th>
<th>Duty Applied</th>
</tr>
</thead>
<tbody>
<tr>
<td>France</td>
<td>25</td>
<td>0</td>
</tr>
<tr>
<td>Fed. Rep. of Germany</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Italy</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>Benelux</td>
<td>10</td>
<td>0</td>
</tr>
</tbody>
</table>

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(ii) Under the Rome Treaty the situation as of 1 January was to be:

<table>
<thead>
<tr>
<th>Country</th>
<th>Duty effectively applied</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>on imports</td>
</tr>
<tr>
<td></td>
<td>on imports from AOT's</td>
</tr>
<tr>
<td></td>
<td>on imports from third countries</td>
</tr>
<tr>
<td>France</td>
<td>0</td>
</tr>
<tr>
<td>Italy</td>
<td>0</td>
</tr>
<tr>
<td>Benelux</td>
<td>0</td>
</tr>
</tbody>
</table>

In other words, a 1 per cent preference in favour of the AOT's was to obtain in the German market as of 1 January 1959.

(iii) At the end of 1958, that is before the entry into force of this preference, the German Government decided to apply, with effect from 1 January 1959, the common external tariff rate of 9 per cent in respect of all imports of cocoa beans. This decision resulted in the nullification of the 1 per cent preference in favour of the AOT's.

5. Representatives of participating countries other than the Six expressed their concern about the uncertainty attached to further action by the Community to implement the 9 per cent tariff and asked that notice be given of future tariff measures.

(b) Assessment of the Common Tariff

6. Representatives of participating countries other than the Six expressed their concern about the effect on their trade in cocoa of the introduction of a discriminatory tariff of 9 per cent in France, Italy and Benelux, where imports had previously been admitted free of duty, and stated that the use of a weighted or of an arithmetical average based on rates applied on 1 January 1957 would have resulted in a much lower figure. While they noted with satisfaction that the reduction of duty on 1 January 1959 by the Federal Republic had been applied non-discriminatorily, they pointed out that this reduction had been offset by an increase in the internal tax on cocoa and that there could, therefore, be no suggestion that the reduction in the German tariff might compensate for the increase in the other tariffs.
7. Representatives of the Six recalled that the common tariff of 9 per cent had been agreed in negotiation among the Member States and had not been calculated on a weighted or arithmetical basis. Had it been subject to such a calculation, however, they would have considered themselves entitled to use legal rates which would have resulted in a figure higher than 9 per cent. At the same time, as these legal rates had been bound against increase in GATT negotiations, they expressed the opinion that third countries, which had been willing to make counter-concessions in their tariffs in return for these bound rates, should be prepared to see the Italian duty increased in return for decreases in the other duties.

8. With reference to the increase in the internal tax on cocoa by the Federal Republic, representatives of the Six stated that as this was an internal, budgetary measure which had no connection with the provisions of the Treaty of Rome, it would not be an appropriate matter for discussion during the consultation.

DEVELOPMENTS IN THE ASSOCIATED OVERSEAS TERRITORIES

9. The representatives of participating countries other than the Six noted that as yet no preference had been granted to cocoa from the associated overseas territories in the markets of the Community. They expressed the view, however, that the tariff preference which would be introduced must act as a stimulus to increased production in these territories and that producers there were already taking action to enable them to benefit fully from the 9 per cent margin of preference when it finally took effect.

10. Representatives of the Six replied that while the situation affecting the cocoa trade was giving rise to concern amongst producers, this was a world-wide problem and was not connected with the provisions of the Treaty of Rome. Production generally was now at a fairly low level; prices were, therefore, high and this in turn had affected the rate of consumption which had shown a steady decline in recent months. In the associated overseas territories a major problem was caused for the industry by the number of old plantations, and as the producers' decision whether or not to improve production methods and replace old trees tended to depend on their immediate earnings it was unlikely that the prospect of a tariff
preference with the Community had begun to affect production. In the view of representatives of the Community the tariff preference would only influence production in the associated overseas territories towards the end of the transitional period and even then it was not expected that the increase would be unreasonable.

OF THE DAMAGE TO THIRD COUNTRIES

(a) Diversion of Trade

11. Representatives of participating countries other than the Six held the view that the prospect of a preferential market within the Community must act as an incentive to increased production in the associated overseas territories. As the rate of consumption within the Community was unlikely to increase much beyond its present level, increased imports from the associated overseas territories would result in producers from third countries being forced out of the markets of the Community. No tariff discrimination was yet in effect and as it would take a few years for expansion of production to affect exports, it might be some time before statistics proving diversion of trade could be obtained but by that time it would be extremely difficult to avoid permanent damage to the trade of third countries.

12. Representatives of the Six were of the opinion that production in the associated overseas territories was not likely to increase much before the end of the transitional period and even then not substantially. Any modification in channels of trade which did occur, therefore, would be at the end of the transitional period but it was not thought likely that the tariff element involved would be great enough to cause any serious diversion of trade.

(b) Decline in Consumption

13. Representatives of participating countries other than the Six expressed the opinion that as cocoa was a commodity which was particularly sensitive to price fluctuations the introduction of a 9 per cent tariff in countries where imports had previously been admitted duty-free would result, at the end of the transitional period, in prices within the Community being higher
than the world price, possibly by a substantial part of the 9 per cent tariff.

14. It was suggested by representatives of third countries that this would lead to a reduction in demand for cocoa beans and to a decrease in consumption of finished products. Information had been received which indicated that manufacturers within the Netherlands, an important cocoa market in the Community, had already made representations to their Government about the possible effects of the 9 per cent tariff on their industry, and this concern of manufacturers within the Community appeared to confirm the views held by third countries about the possible effects of the common tariff.

15. Representatives of the Community pointed out that it was rare for an increase in import duty to be reflected fully in price levels. They recognized that the imposition of a 9 per cent duty on imports which had previously been admitted duty-free would have some influence on prices but they could not foresee by how much, since price levels depend also on market conditions and other factors.

16. The representatives of the Community did not agree that a decline in consumption would result from an increase in prices. They held the view that the price level at which consumption might be discouraged was well above that which would result from the 9 per cent tariff, and stated that in any case they would not examine the effects on trade which the imposition of the full rate of 9 per cent might have as it was not possible to estimate developments in the cocoa trade so far ahead.

ASSOCIATION OF DAMAGE

17. No agreement was reached during the consultation on the question of how damage to third countries could be assessed at this stage. Representatives of the Six held the view that no actual damage was being suffered by other producers as a result of the implementation of the Treaty of Rome and that because of the many factors influencing trade in cocoa it was not possible to forecast the effects which the provisions of the Treaty of Rome might have twelve or fifteen years hence.
(b) Views of the Six

21. The representatives of the Six said that there was no proof that actual damage was being suffered by other producing countries and that it was not appropriate to consider, during these consultations, damage which might arise in the future. No useful purpose could be served by attempting, at this stage, to forecast developments in the cocoa trade over a period of years; it would be for the other participating countries to show evidence of damage if and when it occurred.

22. While they agreed that their own assessment of the position over the next few years was also subject to uncertainty they felt that the apprehensions of third countries would prove to have been unjustified. They undertook, however, to report the views expressed by the other participating countries to the Community institutions.