1. The Working Party was appointed by the CONTRACTING PARTIES at the sixteenth session, with the task of examining the Montevideo Treaty in the light of the provisions of the General Agreement on Tariffs and Trade and subsequently reporting to the CONTRACTING PARTIES at their seventeenth session.

2. The Working Party met in June 1960, and during the seventeenth session in November 1960. It had available the replies (L/1311, L/1311/Add.1 and L/1311/Corr.1 and 2) from the Member States to the questions asked by the CONTRACTING PARTIES in accordance with the procedure laid down at the sixteenth session for the examination of the Montevideo Treaty, together with additional information supplied by the Member States at the meetings in June 1960.

3. The Working Party ascertained the stage reached in the ratification procedures necessary for bringing the Treaty into effect. On this subject, it was stated on behalf of the Member States that all the signatory countries had started ratification proceedings and that it was hoped that the Treaty would come into force at the beginning of 1961.

I. THE PROVISIONS OF THE MONTEVIDEO TREATY AND THEIR EFFECTS ON TRADE

(1) Tariff system of the area

4. The Member States have stressed the fact that they intend to proceed with the abolition of customs duties and other import charges inside the area in respect of as high a percentage as possible, calculated on the basis of the total value of the products exchanged. They explained that the lists mentioned in the Treaty, and the tariff disarmament, not only apply to products in which there is at present trade between them, but will also apply insofar as possible to products in which there is as yet no trading within the area.

5. With regard to the information which, in the view of certain delegations, should be supplied in advance to the CONTRACTING PARTIES, in respect of any measure of importance for the establishment of the Free-Trade Area, the Member States indicated that it was not at present possible to judge, in advance, of the steps which would be taken in that connexion by the organs of the
association. However, they consider it likely that the Conference of Member States and the permanent Executive Committee will confirm the intention, expressed at the time the Treaty was signed, to supply all information which may be of use to the CONTRACTING PARTIES.

6. The Working Party noted that the tariff reductions would not be linear in nature, but might differ according to products. In that connexion, it requested Member countries to specify whether in the case of a country like Argentina which applies both customs duties and a surcharge on imports, the point of departure for the tariff disarmament would be the level of the customs tariff or the level of that tariff increased by the surcharges in force. The Member countries stated that the surcharges were assimilated to the customs duties, and that they, too, would be reduced progressively in accordance with the criteria to be established.

7. The Member States explained that the basic criteria for the definition of "substantially all their reciprocal trade" was quantitative in character. Furthermore, the nature of the products and the sectors of activity to which measures for the abolition of obstacles to trade would apply were not limited, and any product could be included in the programme. However, it is not possible to indicate now the products in respect of which customs duties will not have been abolished at the end of the transitional period.

8. As regards the treatment applying to products which will remain subject to customs duties or to other import charges at the end of the transitional period, the Member States declared that the Member countries of the Association and of GATT would take care to avoid all discrimination in respecting their contractual commitments.

9. Explanations were requested concerning the system of payments in goods, applying in Mexico. In this connexion, it was indicated by the Member States that if the obligation to export were in fact equivalent to a charge within the meaning of Article 3 of the Treaty, and resulted in an increase in the price of the product imported, the Mexican Government would be required progressively to abolish that obligation.

10. As regards the effects of the Treaty on the system of selling foreign currency by auction, as practised in Brazil, it was explained that the Treaty did not deal specifically with the system, but that, to the extent to which the multiple exchange rates might have effects equivalent to charges within the meaning of Article 3, such effects would have to cease.

11. In answer to questions about the procedure for reducing duties and charges under Article 5 of the Treaty and the proposed method of calculation for determining the percentage of the charges applicable to third countries, the Member States indicated that Member States were allowed every latitude with regard to the choice of the products on which negotiations were to be undertaken each year, subject only to the restriction that the sum of the annual reductions should not be less than 8 per cent of the weighted average as defined in Article 5.
12. As regards the position of Member States which are not yet parties to the General Agreement, the Member States stressed the fact that the Argentine Republic had already initiated proceedings for accession to the General Agreement. Nothing has yet been decided in respect of Mexico and Paraguay. The Member States pointed out that all the signatories of the Montevideo Treaty had undertaken to take into account the obligations of those of their number which were bound by the General Agreement.

13. With regard to the harmonization of the import and export systems as envisaged in Article 5 of the Treaty, it was stated that the Member States, while remaining free to establish and to maintain duties and charges on imports from third countries, would not fail to bear in mind the objectives which had become of common concern owing to the establishment of the area. Furthermore, none of the Member States contemplates adopting measures which could lead to a reduction of trade with third countries.

14. One member of the Working Party referred on the one hand to the provisions of Article 18 of the Montevideo Treaty which provides that the tariff system applied by any country to one of its partners in the area is to be extended to the other Member States, and pointed out that, on the other hand, the Member States had expressed their wish to prevent, by an immediate and complete extension to all members of the area of the existing forms of favourable treatment, disturbance to trade inside the area and distortion of the flow of goods. The Member States replied that they are well aware that difficulties might arise in that connexion on the entry into force of the agreement establishing the Free-Trade Area, but they stressed the fact that the final goal was the expansion and diversification of trade and that every endeavour would be made to give full effect to the provisions of Article 14 of the Treaty. The problems which may arise as a result of the application of Article 18 concerning most-favoured-nation treatment, should, and without any doubt can, be settled through annual negotiations such as those planned between the signatory countries.
(2) **Quantitative restrictions**

15. With respect to their programme for the removal of quantitative restrictions within the area, the Member States reaffirmed their intention to completely eliminate such restrictions by the end of the twelve-year period established under the Treaty; hence it was their intention to negotiate with other Member States the elimination or relaxation of restrictions within the period mentioned. A criteria has not yet been established to determine when to authorize a Member State to extend measures adopted to correct balance-of-payments difficulties. Certain escape clauses provided for the temporary retention of quantitative restrictions by less-developed countries in special circumstances in order to protect newly established industries or those whose competitive position was weak. Although it would be possible for Member States to resort to these escape clauses, beyond the twelve-year transitional period, recourse to them could only be as a transitional measure or temporary expedient lasting no longer than one year.

16. The intention was to liberalize, within three years of entry into force of the Treaty, 25 per cent of the total aggregate volume of intra-area trade. During each subsequent three-year period an additional 25 per cent of such trade would be liberalized until at the end of nine years the percentage would stand at 75. During the final three-year period the objective was that 100 per cent or substantially all trade would be liberalized among Member States. The Working Party expressed certain misgivings regarding the absence of a more detailed plan or more complete schedule for trade liberalization. The Member States explained that the Treaty had not yet been ratified, that the first conference of Member States would be held early in 1961; with this in mind a Provisional Committee had been established to work out details of tentative proposals regarding a more definite programme with respect to the implementation of future liberalization measures. The procedure to be followed in order to achieve this objective would be to draw up both National and Common Schedules listing annually negotiable items on which restrictions would be relaxed or abolished in return for other concessions. It would be possible that an item would be included simultaneously in both schedules. At the end of the twelve-year period it was intended that the items included in the Common Schedule would appear in the National Schedules; the latter would incorporate the fulfilment of individual commitments while the former related to items which had to be completely freed from obstacles to trade by the end of the transitional period.

17. The Working Party drew attention to the possible risk that planned reductions in quantitative restrictions might be deferred from year to year. The Member States pointed out that such fears were unfounded since firm obligations had been assumed to negotiate such reductions on an annual basis without any provision for deferment. The annual negotiations would determine the methods and pace envisaged for the elimination of existing quantitative restrictions in each of the member countries. By such means Member States proposed to ensure the incorporation in the liberalization programme of substantially all products originating in their constituent
18. The members of the Working Party expressed concern over the possibility that discriminatory treatment of imports from third countries would result from the implementation of the provisions of the Treaty. The Member States gave assurance that in this regard each Member State would take into account obligations arising out of international commitments, although the terms of the Treaty which refers only to trade within the area did not provide that restrictions would be eliminated in the case of imports from other contracting parties to the GATT. It might be considered appropriate to relax quantitative restrictions on intra-area trade without at the same time relaxing such restriction on trade with third countries to the extent that the reasons which had justified the imposition of such restrictions persisted.

19. The Working Party noted that while the Treaty did not contain any provisions which would operate so as to affect unfavourably trade channels between Member States and third countries, neither did it contain any safeguards to prevent sudden changes in area treatment of goods originating in third countries which could have adverse repercussions. The Member States advised the Working Party that it was not expected that there would be any reimposition or intensification in quantitative import restrictions while the Treaty was being implemented; any difficulties arising in this regard would be considered jointly if brought to their attention. Further, they pointed out that it was not anticipated that the provision for gradual elimination of quantitative restrictions would inhibit any Member State from removing immediately such quantitative restrictions as were inconsistent with its broader international commitments. On the other hand, there could be no positive assurance given that the residual restrictions remaining against imports from outside countries at the end of the twelve-year period would not involve an element of discrimination. In some cases, the assistance provided to domestic producers by their retention might be necessary in those Member States whose tariffs or economic development levels were low. In this connexion it was stated that there would be no inter-area discrimination with respect to the application of such restrictions.

20. The importance of keeping informed the CONTRACTING PARTIES to the GATT with respect to the progress made in the removal of intra-area quantitative restrictions as a result of periodical negotiations among Member States was emphasized by the Working Party. The Member States gave specific assurances that it was their intention to advise the CONTRACTING PARTIES of all developments with regard to the gradual implementation of the terms of the Treaty in due time or as soon as there was anything new to report. Further, they undertook to make available all National and Common Schedules as and when they were compiled together with information related to any measures concerning them. The Member States considered that
the retention, until the end of the transitional period of these National Schedules was consistent with the relevant rules of GATT as such schedules merely recorded the intention of individual Member States to eliminate quantitative restrictions or other obstacles to trade.

21. The Working Party expressed an interest in the provisions of the Treaty applicable to export restrictions. The Member States explained that the export systems applied by them were of a liberal and non-discriminatory nature. As export restrictions were maintained in order to ensure adequate internal supplies of certain commodities or in accordance with international obligations it did not appear to be necessary to include special provisions for them in the Treaty. Nevertheless, Member States would endeavour to avoid a situation where the application of these measures would operate in such a way as to impair their liberalization programme.

22. The Working Party noted that the systems of prior deposits in force in the Member States were a type of restriction to trade and any move to eliminate prior deposit requirements would be most welcome. The Member States explained that while under the terms of the Treaty prior deposits were not considered to fall within the provisions relating to restrictive regulations, these would be abolished during the period of formation of the free trade area. It was, therefore, possible that in future products of the area would be subject to prior deposits as the Treaty did not state that these would be eliminated for third countries. Furthermore, the Treaty did not envisage any modification in the systems of multiple exchange practices maintained by Member States.
(3) Agriculture and livestock products

(a) The agricultural policy and its objectives

23. The Working Party requested the Member States to specify the objectives pursued under the provisions of the Montevideo Treaty in respect of agricultural and livestock products, and, in the first place, to indicate how those products would be defined.

24. The definitions are to be supplied by the Association's organs, but the Member States are of the opinion that there is no reason for departing from the standard terms in general acceptance in international conventions.

25. The Association's provisional committee instituted at Montevideo is dealing with this point in anticipation of a number of decisions which can only be taken by the Conference of Member States, which may be held at the beginning of 1961 as soon as the proceedings relating to the ratification of the Treaty have been successfully completed.

26. A member of the Working Party enquired whether the Member States could give an assurance to the CONTRACTING PARTIES that the measures applicable to the trade in agricultural products during the transitional period would be withdrawn at the expiry of the twelve-year period, and, if not, whether it was the intention of the Member States to submit to the CONTRACTING PARTIES a programme of gradual elimination of such measures. The spokesman for the Member States, referring to Article 28 of the Treaty, recalled that the restrictive policy in respect of trade in agricultural and livestock products was to terminate at the end of the transitional period, and that, consequently, there was no need for such a programme to be drawn up. Moreover, as had already been mentioned, the CONTRACTING PARTIES are to be kept regularly informed of the progress achieved towards trade liberalization by the Member States of the area.

27. Another member of the Working Party asked for elucidation of the wording of Article 29 of the Treaty referring to a priority to be given to products originating in the territories of other Member States of the Area, which might imply discrimination against third countries. The answer given was that Member States would make the necessary adjustments to achieve a sound expansion of trade in agricultural and livestock products originating in the area and that regular consultations would be arranged between them. As regards relations with third countries, it was well-known that there was extensive international trade in agricultural and livestock products, and therefore, while striving for an expansion of trade within the area, the Member States have undertaken to maintain normal competitive conditions and to prevent the introduction of uneconomic productive activities. In any case, it is the intention of the Member States to act in conformity with the normal conditions of international trade and the CONTRACTING PARTIES will be informed of any arrangements which may be made in implementation of Article 29 of the Treaty.
28. With regard to the criteria to be established with a view to preventing uneconomic productive activities, the Member States have stated that, while these have not yet been formulated, the organs of the Association, once in operation, would not fail to furnish the required information to the CONTRACTING PARTIES.

(b) Bilateral agreements in respect of agricultural products

29. When proceeding to the study of the replies given by the Member States to the questions relating to the bilateral agreements referred to under Article 29 of the Treaty, the Working Party wondered how it would be possible to draw up agreements designed mutually to offset any shortfall in domestic production without giving rise to fresh hindrances to normal trade with countries outside the area. Member States indicated that it was the intention of the signatories to the Treaty to enter into long-term bilateral agreements or into quantitative agreements which would both provide the exporting country with the assurance of a stable market and the importing country with a definite possibility of securing quality products at international prices. As long as such arrangements comply with the conditions of a free market, there cannot be additional hindrances in respect of countries outside the area.
30. Bilateral agreements such as those under reference in respect of agricultural and livestock products might entail discrimination or lead to a disruption of the normal conditions of international trade as a result of intervention by State-trading concerns; but the Member States consider that their commercial policy will promote multilateral trade, that bilateral agreements will not necessarily be concluded, and that, in any case, there is no question of an extension of State-trading between the signatories of the Treaty.

31. In order to allay any misgivings on the part of the Working Party as to the selling terms which would be specified in any bilateral agreements dealing with agricultural and livestock products, the Member States reiterated that it was their common desire to provide satisfactory conditions for all Member States so as to meet the requirements of Article 29 during the transitional period, while at the same time assuring the countries outside the area that such agreements will not be detrimental to traditional channels of trade.

II. COMPATIBILITY OF THE MONTEVIDEO TREATY WITH ARTICLE XXIV OF THE GENERAL AGREEMENT

32. The Working Party considered the question of the compatibility of the Montevideo Treaty with Article XXIV of the General Agreement. Several members of the Working Party held the view that the information supplied before and during the meetings was not such as to permit a final statement of opinion on this matter, and stress was laid on the fact that owing to the vagueness of certain provisions of the Treaty and of some of the answers given by some Member States, it would be necessary to make a more thorough study later of the Montevideo Treaty and its practical implications.

33. The Member States, for their part, considered that the provisions of the Treaty were in conformity with the provisions of paragraphs 5 to 9 of Article XXIV of the General Agreement.

34. The Working Party considered whether the Treaty partook, according to the provisions of Article XXIV of the General Agreement, of the nature of a provisional agreement, or whether it constituted a free-trade area. In that connexion it was explained that from the point of view of GATT, the Treaty of Rome and the Treaty of Stockholm constituted "provisional" agreements, and that consequently they contained, so as to give effect to the provisions to Article XXIV, a plan and a programme for achieving the establishment, within a reasonable period, of the Customs Union or the Free-Trade Area respectively. It is recommended that the same interpretation be given to the Treaty of Montevideo, since the latter does not provide for the immediate abolition of restrictions on trade between the signatory countries.