GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

9 November 1960

REVISED DRAFT

FOR THE USE OF MEMBERS OF THE DRAFTING COMMITTEE AT THE MEETING ON THURSDAY, 10 NOVEMBER at 10 a.m. in Room 650

LATIN AMERICAN FREE TRADE AREA

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 aoccordance 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 meeting 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

4. Certain delegations questioned the Member States regarding their intentions with respect to information which they felt should be supplied in advance to the CONTRACTING PARTIES whenever measures of importance were decided in relation to the implementation of the Trade Area. The Member States indicated their intention to supply at an appropriate time all information which might be of use to the CONTRACTING PARTIES.

(1) Tariff system of the area

5. The Member States 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 of their mutual trade as possible, calculated on the basis of the total value of the products exchanged among themselves. They explained that the lists mentioned in the Treaty, and the abolition of tariffs applied both to products in which there was at present trade between them and, insofar as possible, to products in which there was as yet no trade within the area.

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 States to specify whether in the case of a country like Argentina which applied both customs duties and surcharges on imports, the point of departure for the abolition of tariffs would be the level of the customs tariff or the level of the tariff increased by the surcharges in force. The Member countries stated that the surcharges were assimilated into the customs duties, and that they, too, would be reduced progressively in accordance with the provisions of the Treaty.

7. The Member States explained that the basic criteria for the definition of "substantially all their reciprocal trade" were 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, and Member States expressed their intention to go as far as possible in that direction. However, it was impossible to indicate at present the products in respect of which customs duties would not have been abolished at the end of the transitional period.

8. As regards the treatment applying to products which would remain subject to customs duties or to other import charges at the end of the transitional period, the Member States declared that those who were at the same time signatories to the Montevideo Treaty and contracting parties to the GATT would take care to respect their contracting commitments.

9. Explanations were requested concerning the compensation regime in goods in force 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 measures covered by 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 individual signatories 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 condition that the sum of the annual reductions should not be less than 8 per cent of the weighted average as definied in Article 5.

12. As regards the position of Member States which were 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. No information was available with respect to the possible

eventual accession of Mexico and Paraguay. The Member States pointed out that all the signatories to the Montevideo Treaty had agreed to take into account the obligations of those members who 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, taking into account their commitments under the General Agreement, 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 contemplated adopting measures which could lead to a reduction of trade with third countries. On the contrary Member States intended to take necessary measures to stimulate their global trade insofar as possible.

14. The Working Party inquired whether the full and immediate extension to all members of the area of the existing favourable treatment under the provisions of Article 18 of the Treaty would result in a distortion in the present pattern of trade. The Member States declared that any favourable treatment that existed would be extended immediately but not necessarily unconditionally to all signatories in accordance with Article 18 of the Treaty. They added that the extension of this favourable treatment would be taken into consideration during the first round of negotiations, and that while certain fluctuations in the pattern of trade might occur, every effort would be made to minimize these. In this connection it was pointed out that after entry into force of the Treaty there would be no preferential tariff treatment existing in the area.

15. Regarding consular taxes, it was stated that they were excluded from the Treaty since they represented services rendered and as such they should not be considered as "duties and charges" in the sense of Article 3 of the Treaty. The Working Party expressed concern over the documentation requirements with respect to imports from third countries and asked if equivalent treatment would be accorded to imports from within and outside the area in relation to consular requirements. Furthermore, it was noted that if a simplification of the documentation requirements should occur internally as a result of negotiations among Member States they should not fail to inform the CONTRACTING PARTIES in this regard.

16. The Working Party expressed the hope that the criteria which would be established regarding definition of origin requirements would be implemented in a liberal manner. The Member States informed the Working Party that detailed provisions regarding definition of origin requirements were still under consideration.

(2) Removal of other obstacles to trade

17. In reply to questions the Member States affirmed their intention to remove not only tariffs duties, and other charges but also to eliminate quantitative and other restrictions which hampered the free flow of trade. The Working Party expressed certain misgivings regarding the absence of a

more complete schedule for trade liberalization. In this connection it was pointed out that at present very few quantitative restrictions were applied by signatories to the Treaty and that therefore a detailed programme for their progressive elimination was not required. The Member States explained that as a result of periodic negotiations in accordance with commitments assumed in Article 3 of the Treaty at the end of the transitional period such obstacles would be eliminated on substantially all their reciprocal trade.

18. The Working Party was advised that certain escape clauses provided for the temporary retension of quantitative and other 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 temporary measure lasting no longer than one year, subject to the provisions of the Treaty. The Member States explained that a criteria had not yet been established to determine when to authorise the maintenance by countries within the area of measures applied to correct balance-of-payments difficulties.

19. The members of the Working Party expressed concern over the possibility that disciminatory 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 referred 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 their imposition persisted.

20. 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 under the terms of the Treaty prior deposits were not considered to fall within the provisions relating to restrictive regulations, but these charges would be abolished during the period of formation of the Free Trade Area; further, this commitment would apply only to products originating within the area. It was possible therefore that in the future products from outside the area would be subject to prior deposits as the Treaty did not state that these would be eliminated for third countries.

21. The Working Party addressed itself to the provisions of the Treaty applicable to export taxes and restrictions. The Member States explained that the export systems applied by them were of a liberal and non-discriminatory nature and that they covered a very small volume of trade. 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. With reference to the provisions of Article 50 of the Treaty regarding the re-export of goods within the area, the Member States advised the Working Party that at present there were no export controls in force but that provision had been made in the Treaty as a safeguard to permit countries to impose such controls when required in accordance with their international obligations.

(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 to indicate how those products would be defined.

24. The definitions were to be supplied by one of the institutions of the Association, but the Member States were of the opinion that there was no reason for departing from the standard terms in general acceptance in international conventions. The Association's provisional committee instituted at Montevideo was dealing with this point in anticipation of a number of decisions which could only be taken by the Conference of Member States, which might be held at the beginning of 1961 as soon as the proceedings relating to the ratification of the Treaty had been successfully completed.

24. The question was raised as to whether or not 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 Member States, referring to Article 28 of the Treaty, recalled that such measures were to be terminated 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 were to be kept regularly informed of the progress achieved towards trade liberalization by the Member States of the Area.

26. 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 inter-area trade in agricultural and livestock products, and while striving for an expansion of trade within the area, the Member States undertook to maintain normal competitive conditions and to prevent the introduction of uneconomic productive activities. In any case, it was the intention of the Member States to follow compitative trade practices and the CONTRACTING PARTIES would be informed of any arrangements which might be made pursuant to Article 29 of the Treaty.

27. With regard to the criteria to be established with a view to preventing uneconomic productive activities, the Member States stated that these had not yet been formulated, but that the institutions of the Association once in operation would not fail to furnish the required information to the CONTRACTING PARTIES.

(b) Agreements between Member States with respect to agricultural products

28. When proceeding to the study of the replies given by the Member States to the questions relating to the 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 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. They felt that as long as such arrangements complied with the conditions of a free market, there could not be additional hindrances in respect of countries outside the area. The Member States indicated that these agreements would be consistant with their international obligations and agreed to provide information to the CONTRACTING PARTIES as required.

29. 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 considered that their commercial policy would promote multilateral trade, that agreements would not necessarily be concluded, and that, in any case, it was not intended to extend State-trading between the signatories of the Treaty.

30. In order to allay any misgivings on the part of the Working Party as to the selling terms which would be specified in any 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 would not be detrimental to traditional channels of trade.

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

31. 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 general nature of certain provisions of the Treaty which could not at this stage be sufficiently clarified through the answers of the Member States a further study of the Montevideo Treaty and its practical implications would be necessary.

32. 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. Doubts had been expressed in this connexion in view of the fact that some Member States were not contracting parties to the GATT.

33. The Working Party agreed that the Treaty of Montevideo did not provide for the immediate elimination of all restrictions to trade among the signatories and that it could only be considered by the CONTRACTING PARTIES under the procedures relating to interim agreements leading to the formation of a free-trade area.