EUROPEAN ECONOMIC COMMUNITY - COMMISSION

Report to the European Parliament on the state of the negotiations with the United Kingdom

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BRUSSELS

26 February 1963

Resolution adopted by the European Parliament on 6 February 1963

The European Parliament

invites the European Commission to report to it on the state of the negotiations between Great Britain and the six countries of the Common Market on 29 January 1963.

In this report the European Commission will set out both the results already obtained and the problems still outstanding and will give its opinion on the latter.

The report is to be submitted to the European Parliament within three weeks and will be discussed by the Parliament at its March session.

The report which follows has been prepared in response to this invitation from the European Parliament.

Contents

I. OPENING OF THE NEGOTIATIONS

A. THE BRITISH APPLICATION AND THE ORGANIZATION OF THE CONFERENCE

After a series of bilateral consultations between the British Government and the Governments of the member countries of the Community, the British Prime Minister, Mr. Macmillan, made a statement to the House of Commons on 31 July 1961 in which he announced that Her Majesty's Government intended to open negotiations with the European Economic Community with a view to acceding to the Treaty of Rome under the terms of Article 237.

In this statement the Prime Minister pointed out that no British Government could joint the European Economic Community without prior negotiations on how the needs of the Commonwealth countries and of the members of the European Free Trade Association could be met. The Prime Minister also drew attention to the problems posed by British agriculture.

Following this statement, the British Government was, on 3 August, authorized by the House of Commons to open negotiations with a view to Great Britain's accession to the Community; the terms of the motion conveying this authority were as follows:

"That this House supports the decision of Her Majesty's Government to make formal application under Article 237 of the Treaty of Rome in order to initiate negotiations to see if satisfactory arrangements can be made to meet the special interests of the United Kingdom, of the Commonwealth and of the European Free Trade Association; and further accepts the undertaking of Her Majesty's Government that no agreement affecting these special interests or involving British sovereignty will be entered into until it has been approved by this House after full consultation with other Commonwealth countries, by whatever procedure they may generally agree."

In the official application addressed by the British Government to the President of the EEC Council on 9 August 1961, the British Prime Minister repeated the main arguments of his statement to the Commons.

As soon as the British Government's application was received, consultations took place in the Council of Ministers of the Community after which certain lines of action were laid down for the negotiations:

"1. The negotiations provided for under Article 237 of the Treaty of Rome are negotiations between the six Community States and Great Britain.

As far as at all possible the six Community States will present a joint point of view when dealing with Great Britain.

2. The Governments of the six Member States, wishing to have the assistance of the Commission in the negotiations with Great Britain, have agreed that the Commission should take part in the Conference as adviser to the Six and would have the right to speak.

3. The Commission will share fully in the work of co-ordination between the Six."

Speaking in the European Parliament on 5 February 1963, the President of the Commission referred to the Commission's reservations in regard to this procedure.

As to the principles to be observed in the negotiations, the Council laid down:

1. That any application for accession to the Community would mean that the country concerned unreservedly accepted the rules and objectives of the Treaty of Rome; consequently, negotiations for accession could only deal with the conditions of admission and the adaptations of the Treaty which these would involve.

2. That for political and economic reasons a country's accession to EEC would involve its accession to ECSC and Euratom also.

3. That these principles should be made known to the countries applying for membership to EEC at the very first meeting.

In the letter replying to the application to open negotiations with a view to accession by Great Britain, the President of the Council invited the United Kingdom Government to give the members of the Community full information on the problems facing it, especially in the three spheres referred to in the application, and of the solutions suggested.

The Commission of the European Economic Community, after expressing its lively satisfaction with the statement made by Mr. Macmillan, informed the Council, in reply to the request for an opinion in accordance with Article 237 of the Treaty, that since these negotiations would deal with a body of questions of interest to the Community, it would express its opinion on these problems as the negotiations progressed. It would thus be on the basis of the results obtained that the Commission would give the opinion required under Article 237 of the Treaty.

B. THE BASES OF THE NEGOTIATIONS

The proposals on procedure made by the Six were accepted by the British Government, and at a preparatory meeting in Paris on 10 October 1961 Mr. Heath, Lord Privy Seal and Leader of the United Kingdom Delegation, made a statement on the basis of which the subsequent negotiations in Brussels took place.

In this statement the Lord Privy Seal recalled the reasons which had led the British Government to make its application for the opening of negotiations with a view to Great Britain's accession; he laid particular stress on Great Britain's economic and historical links with Europe.

The British Government declared its readiness to subscribe fully to the various aims which the Governments of the member countries of the Community had set themselves.

In particular, the British Government accepted without qualification the objectives laid down in Articles 2 and 3 of the Treaty of Rome, including the elimination of internal tariffs, a common customs tariff, a common commercial policy and a common agri-

cultural policy. The British Government was also ready to accept and play its full part in the institutions established under Article 4 and other articles of the Treaty.

The British Government considered that if the accession of a new member called for adaptations it should be possible to deal with these special problems by means of protocols.

After thus accepting the principles of the Treaty, the Lord Privy Seal referred to the problems which were to be covered in the negotiations, in particular those already mentioned by Mr. Macmillan, and outlined the solutions he hoped to see accepted.

In addition to the major problems mentioned in its application, the British Government reserved the right to discuss other subjects arising from various articles of the Treaty, particularly in regard to the regulations, directives, decisions and recommendations adopted since the Treaty came into force.

The British Government suggested that the examination of some of these problems could wait until after the United Kingdom had acceded to the Treaty, although for the more vital matters the British Government considered that it was desirable to establish mutual understanding before accession.

In taking official note of this statement, the Six expressed their pleasure at Mr. Heath's acceptance of the general framework of the Treaty and its aims. At the same time both the speaker for the Member States and the President of the Commission indicated the limits within which the negotiations could take place, in particular:

"We have been assured that the United Kingdom's accession will, apart from the necessary adaptations, not require any amendments to the Treaty establishing the European Economic Community and that it will be possible to settle by means of additional protocols the problems which will arise in connection with this accession. Nevertheless, we start from the principle that these protocols must not be allowed to modify the tenor and the spirit of the Treaty and must essentially concern transitional arrangements only.

"In fact, however grave and important the problems facing the United Kingdom may be—and we willingly recognize that they are in many cases grave and important—they need to be settled without exceptions becoming the rule and vice versa. Exceptions made must not be of such scope and duration as to call into question the rules themselves or impair the possibilities of applying these rules within the Community. The accession of new members must take place in such a way that they may subsequently share fully in the working out of common decisions in a Community spirit."

II. THE NEGOTIATIONS

Introduction

The statement made by Mr. Heath in Paris on 10 October 1961 in response to a request from the Member States that the British Government should inform them of the special problems with which it was faced and of the solutions it contemplated was therefore taken as the basis of the negotiations. The fact that broadly speaking the negotiations did not in the main centre on the articles of the Treaty of Rome itself and that they did not follow the order of the Treaty's provisions could not be considered surprising since:

i) The application was for accession under Article 237, and the Treaty of Rome was therefore to be considered, in principle, as accepted;

ii) In certain cases the particular problems raised by the United Kingdom Delegation differed rather widely from those the Six had had to tackle when the Treaty of Rome was being negotiated, or their incidence might be appreciably different.

In the sixteen months of the negotiations it was therefore essentially the major problems peculiar to Great Britain which were discussed, the aim being to find a solution which, while it took British interests into account did not impair the spirit of their Treaty or its practical working possibilities.

Much the same approach has been adopted in this report: after a chapter of questions connected with the level of the common customs tariff, the first subject raised by Mr. Heath, subsequent chapters will cover the further questions raised: Commonwealth trade, United Kingdom agriculture and relations with EFTA, in that order. It has been thought useful to devote separate chapters to certain special problems such as the financial regulation, economic union and the legal, financial and institutional aspects of accession. Classification in this way also fits in fairly closely with the different phases of negotiations. The level of the tariff and Com-

monwealth matters were the first subjects discussed, and this took till July last year; United Kingdom agriculture was dealt with mainly from the autumn onwards. When the negotiations were suspended, EFTA problems had not yet been discussed in detail with the British, as in many cases contacts with the signatories of the Stockholm Convention were still in an initial stage.

It is however quite obvious that there is something arbitrary about classifying problems in this way. Though the classification is based on the requests put forward by the British, and though it corresponds very closely with the course actually followed by the negotiations, it cannot show fully all the complexity of the subject and of the links between its various aspects. For example, problems connected with the Commonwealth may have a bearing on the level of the common customs tariff or its application, just as they can also be raised in certain cases in connection with arrangements for British agriculture itself, or again with the general problem of association; the requests for zero duties presented by Great Britain are based in most cases on mixed interests affecting Great Britain itself and certain Commonwealth countries and, in some cases, certain EFTA countries; the interests of countries such as India and Pakistan, at times considered as a separate problem, cropped up at other times in discussions on tropical products or processed foodstuffs.

For this reason several cross-references are given between one chapter and another and any links between them have been brought out.

CHAPTER I

The level of the common customs tariff

A. THE GENERAL LEVEL OF THE COMMON CUSTOMS TARIFF

In his statement of 10 October, the Leader of the United Kingdom Delegation declared himself ready to accept the structure of the present EEC tariff as the basis of the common tariff of the enlarged Community. In these circumstances, he thought, the necessary lowering of tariff levels might be achieved by making a linear cut in the common tariff as it stood. He suggested that this might be of the order of 20 %, a figure which the Community had considered in another context.

However, the British "would wish to single out some items for special treatment... our list will not be long".

1. It should be stressed that by accepting the structure of the common customs tariff the British Government adopted a general standpoint which obviated what might have been a very delicate legal and technical discussion.

The common customs tariff had been fixed by the Treaty of Rome on the principle of the arithmetical average of the tariffs in the member countries of the Community. If on this point Great Britain had demanded a re-calculation of the whole of the common customs tariff, considerable difficulties would certainly have arisen. These would have been further aggravated by the fact that other countries had also applied for membership of the European Economic Community. The United Kingdom Delegation's attitude, the only one in fact compatible with the reasonable limits of negotiations for membership, was therefore to be welcomed; as the Treaty sets no time-limit for such negotiations, any other principle would have plunged the economies of the member countries into permanent uncertainty and undermined one of the mainstays of the Community.

2. The terms used by the United Kingdom Delegation did, however, give rise to some uncertainty. In the Community's

view, the common customs tariff could only mean the tariff as established by the Council decisions of 13 February, 20 July and 29 December 1960, and by that of 2 March 1960 for products on List G (annexed to the Treaty).

If it had been otherwise, the linear reduction of about 20 % proposed by the British would have had to be applied to the common customs tariff resulting from the negotiations under Art. XXIV(6) of GATT, and consequently wherever a reduction had been accepted by the Community under the terms of this Article (there were about 261 such reductions) the new rate would have worked out in many cases at 40 % below the common customs level as established by the decisions referred to above.

The opening talks with the United Kingdom Delegation made it clear that in principle the United Kingdom accepted, for the enlarged Community, the common customs tariff as modified by the Dillon negotiations, subject to the Delegation's requests concerning zero duties and the level of duties for agricultural and tropical products (matters which are dealt with below). The United Kingdom reserved, however, the right to request that at the end of the negotiations the Six and the United Kingdom should together examine whether the level of the tariff resulting from those negotiations was appropriate as a tariff for the enlarged Community or whether it still needed to be adjusted by complementary reductions which would not exceed the 20 % envisaged for the negotiations. The British Government did not intend to ask for any upward adjustments.

3. It would seem that the United Kingdom Delegation took the view that an automatic 20 % cut would have been necessary if the enlarged Community's customs tariff were to be made acceptable to the GATT Contracting Parties. The Six were not able to fall in with this argument: they considered that the present common customs tariff was compatible with GATT and that, in view of the higher general level of the British tariff, British membership would not alter the situation. In particular, the incidence of the customs tariff applied by Great Britain to countries outside the Commonwealth and EFTA was heavier than that of the common customs

tariff; the Six therefore intimated that it was only on the basis of adequate reciprocity that complementary reductions could be made.

4. When the negotiations were suspended, the question of the general level of the common customs tariff was, from this angle, still unsolved. The United Kingdom Delegation had not stated for which tariff items it reserved the right to examine jointly with the Six a 20 % reduction or the possibility that complementary adjustments not exceeding a 20 % cut should be made in the level of the tariff after the end of the Dillon negotiations. The fact that it had still not been possible to reach agreement on certain requests for zero duties may perhaps have helped to maintain uncertainty on this point.

For its part, the Community was ready to consider the changes within the limits contemplated by the United Kingdom Delegation, provided always that the principle of reciprocity, which had been one of the factors in the decisions of 12 May 1960, was formally accepted by Great Britain.

5. It should be noted that those taking part in the Conference were aware of the existence of a further uncertainty which concerned both the general level of and the individual rates in the common customs tariff, an uncertainty which would last throughout the negotiations under Article XXIV of GATT (particularly paragraphs 5, 6 and 9) which would have had to be held once Great Britain had joined the Community.

B. BRITISH REQUESTS FOR ZERO DUTIES IN THE INDUSTRIAL SECTOR

In paragraph 18 of the speech he made on 10 October 1961, Mr. Heath had said he would give a list of products for which the United Kingdom would not be able to accept the rates laid down in the common customs tariff.

1. This list, which was presented by the United Kingdom Delegation at the opening of the negotiations, contained 24 industrial

products and groups of products. In April 1962 two other products were added. For all these products the United Kingdom Delegation requested a zero duty in the common customs tariff.

The British requests were in most cases based on the fact that a large proportion of the United Kingdom's imports of the products in question come from Commonwealth countries and are therefore admitted duty free or given preferential treatment under the British customs tariff. However, for certain products, the reason for the British request was of an internal economic nature—namely the danger of higher prices if the common customs tariff were applied to imports of these items by the United Kingdom.

The list represented altogether about 16 % of United Kingdom imports in the industrial sector. Some of the products affected are of considerable economic importance (for example, wood pulp, newsprint, aluminium, lead and zinc, and petroleum products).

2. The negotiations on these requests for zero duties proved difficult:

a) Several of the items in question—often the more important ones—were List G products, which had already given rise to difficult negotiations among the Six; agreement had been reached on the duties for these items in the common customs tariff only as a result of an extremely complex package deal worked out at the Rome Conference of February and March 1960.

b) Even for the products of lesser importance, agreement was seldom easy: each British request raised particular difficulties for one or more Member States, and it was only with difficulty that a way could be found of balancing out the various concessions to be made by each party.

c) Care had also to be taken to see that the solutions proposed dit not lead to a permanent splitting up of the common market in the products in question, as this would have had unfortunate effects on the free movement of goods between the Member States of the enlarged Community. It was therefore important to avoid the generalized use of any device which could have been introduced

right away without difficulty but which would in the long run have had serious consequences for the Community; such a formula, which consisted of granting tariff quotas to the United Kingdom only, was often put forward as a way of getting round the problems raised by the British requests.

3. In the 16 months of negotiations agreement was reached on ten products only; with the exception of wood pulp, these were of lesser individual importance and represented about 30 % of the volume of British imports covered by the list of 26 items:

a) For two items (acetylene black, bars and rods of nickel-copper alloy) a zero duty was agreed;

b) In two cases (sulphur and, in view of the possibilities offered by Article 25 of the Treaty, cobalt oxide) the United Kingdom Delegation withdrew its request;

c) For six other items, a provisional solution was found in three cases (wood pulp, ferro-silicon and ferro-chromium), it was decided to apply List G protocols to the United Kingdom and to review the problem in the light of the negotiations with the Scandinavian countries. In two other cases (silicon carbide and calcium carbide) the Six agreed with the United Kingdom Delegation to hold over examination of the question until Norwegian membership was being negotiated, and in the last case (rosin) until the United Kingdom could, after its accession, take action to cut duties under the association agreement with Greece.

Sixteen of the twenty-six items remained unsettled—four "major" products and twelve "minor" products.

4. Of the four "major products", the Six reached a common standpoint on *newsprint* only. The first proposal on this product, drafted on the basis of a Commission document, provided for:

a) Recognition by the Six that after the accession of the United Kingdom the provisions of Article 25 of the Treaty of Rome would be applicable to British imports of newsprint, and would permit the opening of a tariff quota on the same terms as those enjoyed by other Member States;

b) An assurance that all the arrangements applying to newsprint would be reviewed if the supply situation in the Community were to change.

Neither this text nor various alternative suggestions were acceptable to the United Kingdom Delegation (which maintained its request for a guarantee of a zero duty for all British imports of newsprint) and the Six therefore, again on a proposal from the Commission, endeavoured to accommodate the United Kingdom's difficulties by submitting to the sixteenth Ministerial Meeting the following formula:

1. From the date of the accession of the United Kingdom to the EEC and up to the date of the third alignment of national duties with the CCT, if the Commission finds that the production of newsprint (heading 48.01 A of the CCT) in the Member States is not sufficient to supply the demands of any Member State, and that such supply traditionally depends, to a considerable extent, on imports from third countries, the Council, acting by means of a qualified majority vote on a proposal of the Commission, shall grant to the Member State concerned tariff quotas at zero duty.

2. Such quotas may not exceed the limits beyond which the transfer of activities to the detriment of other Member States becomes apparent.

3. From the date of the third alignment of national duties with the CCT the Council, acting by qualified majority vote on a proposal of the Commission, may open a Community tariff quota at zero duty equal to the sum of the tariff quotas which it would be possible to grant under the criteria stated in paragraphs 1 and 2 of the present Agreement.

4. In the event of association of other major newsprint producers with the Community, the whole of the system applicable to newsprint will be re-examined. The Member States declare their readiness to extend to Canada the system which would then be defined within the framework of association.

This document was submitted too late for the United Kingdom Delegation to express an opinion on its content.

With regard to the other major products (aluminium, lead and zinc), discussions between the Six had not, when the Conference was suspended, progressed sufficiently for a proposal to be submitted to the United Kingdom Delegation.

For aluminium, however, the possibility of granting the United Kingdom a tariff quota with duty fixed at 5 % was briefly discussed with the United Kingdom Delegation. This discussion produced no results; but at the sixteenth Ministerial Session the United Kingdom Delegation intimated that it would no longer insist on a zero duty for this product and would be willing to consider a reduction of the existing duty. The last proposal submitted by the Commission might constitute a fair compromise between the different interests involved; it provided:

a) That on the accession of the United Kingdom, the duty on aluminium should be partially suspended at 7 %;

b) That this suspension should be temporary and should not extend beyond the end of the Kennedy negotiations and at latest beyond 1 July 1967, the date on which the "Trade Expansion Act" expires;

c) That during the period referred to in *b)* the Member States, acting in accordance with Article 23 of the Treaty and with due regard to the speed-up decisions, should align their national tariffs on this 7 % duty;

d) That the application of Protocol XII relating to List G should be suspended for the same period.

e) That the duty on aluminium should be reduced to the rate shown in *a)* and Protocol XII relating to List G be abolished if satisfactory reciprocal concessions should be obtained in the tariff negotiations conducted while the duty was partially suspended.

f) That if there should be a reversion to the full rate of duty Protocol XII relating to List G should once again be applicable to the Benelux countries and to the Federal Republic of Germany, as well as to the United Kingdom, it being understood that at the moment of the last alignment of national duties on the common customs tariff national tariff quotas would be converted into a Community tariff quota with duty at 5 %.

With regard to *lead and zinc*, discussions were particularly difficult because of a crisis in the Community industries resulting from a fall in world market prices. In view of this situation and of the British interests involved, the Commission proposed that a solution be sought in the framework of a common industrial policy for the sectors in question. This Commission proposal, in its final form, ran as follows:

"The Community declares its readiness to abolish the duties laid down in the common customs tariff for lead and zinc provided the other producer countries abandon the measures protecting their industries.

Failing this, the Community will adopt the following system, which is designed to correct distortions of competition and of supply resulting from the policies followed by certain countries with a large output of the products in question:

1. More rapid implementation of the Treaty's objectives in respect of Chapters 78 (lead) and 79 (zinc) of the common customs tariff, starting at the earliest date possible:

a) abolition of internal duties

b) application of the common customs tariff

c) implementation of a common commercial policy.

2. Exemption from duty for lead bullion and the creation of a new sub-heading (78.01 A I) in the common customs tariff for this product.

3. Continued isolation of the Italian metal and scrap market for the period laid down in paragraph 2 of Protocol XV relating to List G and retention of similar measures for semi-finished goods as long as the conditions referred to in Article 226 persist; the suppression of these protective measures should be gradual.

4. Suspension of the common customs tariff duties for headings 78.01 A II (unwrought lead, others) and 79.01 A (unwrought zinc) under the conditions defined in paragraph 5 below, if the London Metal Exchange prices reach a sufficient level.

At the present stage, a price level of £75 per long ton for lead and £85 per long ton for zinc is considered sufficient.

The duties to be re-imposed, under the conditions defined in paragraph 5 below, if The London Metal Exchange prices fall below the price level referred to above.

5. Both the suspension and the re-introduction of the common customs tariff would be carried out on the seventh day after the Commission had noted that the London Metal Exchange rates had reached or fallen below the price limits shown in paragraph 4 above for twenty consecutive trading days.

The fact that the Commission has noted that the said conditions are fulfilled shall be notified to the Member States.

6. The price levels shown in paragraph 4 above could be revised under the provisions of Article 28 of the Treaty.

7. The right to invoke the provisions of paragraph 1 of Protocol XV relating to List G shall be abrogated.

8. The United Kingdom shall effect the alignment of its preferential tariff with the common customs tariff rates in the following stages:

a) first alignment : upon accession

b) second alignment: 1 July 1964

c) third alignment : 1 January 1967."

This solution would have gone a long way towards satisfying the United Kingdom Delegation (zero duty for lead bullion, which accounts for about 27 % of British lead imports, décalage (1) of the second alignment of the preferential duties with the common customs tariff and abolition of the enlarged Community's tariff protection if the price level reverted to normal) and at the same time would have ensured the working of the common market in the metals sector.

(1) i.e. postponement. See page 33 et seq.

The Commission still considers that this proposal, like those put forward for newsprint and aluminium, could have provided the basis for a compromise.

At the sixteenth Ministerial Meeting the United Kingdom Delegation stated that they were prepared to limit the request for a zero duty to certain qualities of lead and zinc (lead bullion and super-refined zinc) provided tariff quotas could be granted to the United Kingdom for the other types of lead and zinc.

5. Most of the remaining manufactures in the list of 26 items, could normally be considered as "minor"; during the sixteenth Ministerial Meeting the United Kingdom Delegation stated that these were hardly likely to produce serious problems once the question of more important items had been settled.

As regards these "minor" items it does not seem likely that better results would have been obtained if they had been dealt with product by product. In the endeavour to reach a final solution one of two courses might have been adopted: there could have been partial and linear suspension of duties pending the outcome of the "Kennedy round" or, alternatively, there could have been greater flexibility in the progressive introduction of the common customs tariff, combined if necessary with other measures under Article 25 of the Treaty.

Some of these "minor" products concerned were in British requests of particular interest to India and Pakistan (heavy jute goods, East India kips, hand-knotted carpets, coir mats and matting). In view of the very specific interest of these products, they will be examined in the next chapter, dealing with the settlement of problems of interest to the countries concerned.

Moreover, during the negotiations, the United Kingdom Delegation had submitted other requests for changes in the rates laid down in the common customs tariff. These were:

a) 10 manufactured products of interest to India, Pakistan and Ceylon;

b) 25 tropical products;

c) 17 processed foodstuffs.

In view of the specific aspect of these questions, they will be dealt with later in chapters dealing more particularly with the problems of interest to each of the main categories of Commonwealth countries.

CHAPTER II

Commonwealth problems

INTRODUCTION

GROUPING OF COMMONWEALTH COUNTRIES

1. Mr. Heath's statement of 10 October 1961 referred to the links between the United Kingdom and the Commonwealth, and to their importance for Great Britain. "Commonwealth trade is one of the strongest elements in maintaining the Commonwealth association. It would be a tragedy if our entry into the Community forced other members of the Commonwealth to change their whole pattern of trade and consequently perhaps their political orientation". Mr. Heath also pointed out that the economies of most Commonwealth countries had been built up on the basis of supplying the British market (1), which has traditionally imported their produce duty-free and often on preferential terms.

Mr. Heath's statement went on to say that the British Government considered that Commonwealth problems could be solved either through the Treaty itself, or by protocols annexed to it, by analogy with the solutions which had been adopted for settling relations between the Community and those countries with which one of the Member States had special links.

Two types of solution were quoted in this connection:

i) One, employing the precedent of the protocol annexed to the Treaty, and applicable mainly to Morocco and Tunisia, allowed the countries concerned to maintain unimpaired their right of access to the market of the country with which they had special links.

ii) The second was concerned with those overseas countries and territories for which the Community as a whole has made a special arrangement.

2. It was difficult to accept a priori an analogy of such general scope. Indeed, the Commonwealth is a bloc of much greater economic importance than the precedents quoted on the British

(1) Commonwealth imports represent more than 35 % of the United Kingdom's total imports.

side; its legal structure is quite different; and in addition it is extremely heterogeneous as regards both production and level of development. It was therefore only after much more thorough and specific study of the problem that a search could be made for some method by which the relationship between the Commonwealth countries and the United Kingdom market could gradually be adapted to conform with the situation created by Great Britain's acceptance of the rules contained in the Treaty of Rome. Indeed, in his statement the Lord Privy Seal had already suggested that the various problems involved in this situation could be split up into their different components. In particular, he made a distinction between the problems relating to manufactures, to raw materials and commodities, to temperate foodstuffs and to tropical products.

The complexity of the problems was nevertheless such that there were difficulties in getting the negotiations started in a practical and satisfactory way. It seemed particularly difficult to choose between an "individual country or global" approach, and an "individual product" approach.

3. The Commission then proposed a grouping of the Commonwealth countries, generally known as the "Deniau classification", on the basis of the essential characteristics of their export trade and the type of problem raised in relation to the provisions of the Treaty of Rome.

This classification contained the following categories:

i) Canada, Australia and New Zealand with their exports of manufactured products; these had already been treated in Mr. Heath's statement as being in a category of their own;

ii) Countries whose essential problems were linked principally with the application of the common customs tariff and the common commercial policy;

iii) Countries whose exports were largely affected by the Association established under Part IV of the Treaty;

iv) Countries whose problems were mainly agricultural but might also be affected to a greater or lesser degree by the existing Association;

v) Others:

a) Bases and transit ports;

b) European countries with a Mediterranean type production;

c) Countries which present a special problem in connection with the export of petroleum products;

d) Countries coming under various categories.

vi) Countries whose exports did not seem to raise any special problems.

Discussions were started on the basis of this classification after it had been adopted by the Conference; this enabled various types of agreement to be reached. Each of these categories will be examined in detail below.

A. CANADA, AUSTRALIA AND NEW ZEALAND

1. Manufactures

In paragraph 39 of the statement he made on 10 October 1961 Mr. Heath, explaining the United Kingdom Delegation's position on imports of manufactures from the developed countries of the Commonwealth, had expressed anxiety lest the loss of the existing preference for these products on the British market coupled with the establishment of reverse preferences in favour of the major industrial countries in Europe might seriously harm the Commonwealth countries concerned. However, Mr. Heath had recognized that indefinite and unlimited continuation of free entry over the whole of this field might not be regarded as compatible with the development of the common market.

a) First, an economic and statistical survey of the pattern of trade was established. On this occasion, the United Kingdom Delegation stressed the point that imports of manufactures from Canada, Australia and New Zealand would represent in fact only a tiny fraction of the enlarged Community's imports and that for this reason a protocol such as is provided for in the Treaty of Rome to accommodate trade between the two parts of Germany, could be considered an appropriate solution.

This view was not acceptable to the Six. The continuation of duty-free entry to the United Kingdom markets of a very varied range of industrial products, representing some 11 % of all non-agricultural imports into the United Kingdom (1), for an indefinite period would, in their opinion, have raised insoluble problems from the angle of the competitive position of Great Britain's processing industries on the one hand and the free movement of goods (deflections of trade) on the other.

b) However, in order to cushion the effect that any too rapid change in the preferential situation on the British market might have on these three countries' export industries, the Commission proposed a device—known as the "décalage"—which would slow down the tempo of alignment, as compared with the normal tempo, of the preferential British duties for the exports in question on the common customs tariff.

This solution required that a first alignment of the preferential British tariff should be carried out in any case on Great Britain's accession to the EEC, in order to make the gradual and progressive nature of the device chosen quite clear, and it also required that the United Kingdom should apply the common customs tariff in full not later than at the end of the transitional period provided for in the Treaty (1 January 1970). The adjustment of the intermediate dates so as to slow down alignment had not only the advantage of avoiding any unduly sudden tariff changes and of making it easier, in terms of time, for the Commonwealth countries to adapt themselves, but also the very important advantage of allowing possible tariff cuts under the tariff negotiations sponsored by the President of the United States to be taken into account in this alignment.

After several discussions on this subject, the delegations of the Six and the British Delegation accepted the Commission's suggestion and adopted on 25 May 1962 a Conference agreement on the problem in question.

(1) In 1961

The provisions of the agreement included a stipulation that, for those industrial products from Canada, Australia and New Zealand in regard to which a special request had been submitted, the United Kingdom would align its preferential tariff on the common customs tariff according to the following time-table:

First alignment of 30 % on accession;

Second alignment of 30 % on 1 January 1967;

Final alignment on 1 January 1970.

In addition, the Conference recalled the Council's statement of 5 and 6 February 1962 concerning the views of the Community on multilateral negotiations aimed at reducing, on a reciprocal basis, customs duties on industrial products.

Lastly, the Community declared itself willing to examine, in 1966 and 1969, in consultation with Canada, Australia and New Zealand, the development of its trade with these countries and to take the appropriate measures in the light of all the circumstances and in conformity with the provisions of the Treaty.

2. Processed foodstuffs

In his speech of 10 October 1961 Mr. Heath had also referred to the problem, in the same context, of processed foodstuffs, pointing to the difficulties which would stem from the abolition of existing preferences on the British market and the simultaneous application of a system of preferences which worked in favour of the countries of the enlarged Community and to the disadvantage of the Commonwealth.

Moreover, the United Kingdom is generally a heavy consumer but only a minor producer of these products, and depends traditionally on imports for its supplies. The introduction of a duty on these imports would force consumer prices up. Mr. Heath had, however, accepted the principle that the indefinite continuation of free entry for these products on the United Kingdom market was incompatible with the development of the Common Market.

The Six made it clear that they were aware of the political and economic importance of these products for the Commonwealth exporting countries. It should, however, be noted that in certain cases these same products also had great economic and political importance for Community producers. The Six also drew the attention of the United Kingdom Delegation to the tariff negotiations which are to take place with non-member countries, and to the fact that these various tariff items may as a result soon come up for discussion in another context.

a) The United Kingdom Delegation submitted a series of proposals covering some eighty products. At the outset the United Kingdom Delegation asked that there should be a zero tariff for about ten products and for the others, tariff reductions, duty-free quotas, or quotas at preferential duty rates.

In October 1962 an agreement was reached at Deputies' level between the Six and the United Kingdom Delegation on about forty products. By analogy with the treatment accorded to the problems previously raised, this agreement provided for a "standard" décalage and an examination in 1966 and 1969 by the enlarged Community in consultation with Canada, Australia and New Zealand, of the way trade with these countries had been developing.

In the subsequent discussions the Ministers of the Six made a general proposal with regard to all the products for which no solution had yet been found. They proposed a "soft", i.e. more gradual, décalage, involving a further deceleration of the initial steps for alignment on the common customs tariff (1); moreover, a total suspension of duties in the common customs tariff was offered for three products. This general proposal was made conditional on the British Government accepting the whole as a package deal.

(1) Soft décalage :
First alignment : 15 % on accession
Second alignment : 15 % on 1 July 1965
Third alignment : 20 % on 1 January 1967
Fourth alignment : 20 % on 1 July 1968
Fifth alignment : 30 % on 1 January 1970

At the meeting of 16 January Mr. Heath declared himself willing to consider the Six's proposal if it were possible to take up his own proposals for canned fruit (peaches, pears and pineapples, which are of the greatest importance for Australia), and canned salmon (which is of great importance to Canada). On dried grapes Mr. Heath had asked to be kept informed of the problems raised by the Agreement of Association with Greece.

Mr. Heath maintained his request for a zero duty for canned salmon because of the importance of this item for Canada and Great Britain and also because he did not think that Community interests precluded such an arrangement.

b) It is therefore clear that, apart from the need to find a solution for these three products, there were prospects of reaching a broad agreement on the British requests concerning processed foodstuffs from the Commonwealth countries; the agreement would depend on use of the décalage system.

These three products referred to above involve fairly important special interests on the part of either the British consumer or of Commonwealth producers; however, it should have been quite possible for the United Kingdom, once inside the Common Market, to accommodate these interests by using the existing machinery of the Treaty of Rome. In the case of dried grapes, the limits set by the Athens Agreement would have had to be taken into account.

B. INDIA, PAKISTAN, CEYLON, HONG KONG

When speaking of the overall solutions applicable to Commonwealth problems in his opening statement of 10 October 1961, Mr. Heath did not formally group together the three big countries of South-East Asia and the colony of Hong Kong; this grouping emerged in the classification referred to above. The solutions initially put forward by the Lord Privy Seal as part of his two-pronged approach to Commonwealth problems—by region and by commodity—may be summed up as follows:

a) *For Hong Kong:* in principle association with the Community under Part IV of the Treaty, as a Crown Colony;

b) *For India, Pakistan and Ceylon :* an offer of association but with the possibility of redefining the association of overseas countries in the light of objections which the three Commonwealth countries had raised to the terms of the Convention as annexed to the Treaty of Rome, since they considered these difficult to accept.

As to the alternative of a regional solution modelled on the Tunisia-Morocco Protocol, it would seem that it may at the time have been looked upon as a possibility for Hong Kong, but not seriously in the case of India and Pakistan.

The positions adopted by Mr. Heath when discussing the problem from the regional angle were from the outset considerably qualified by some of the arguments he used in the product-by-product approach. For further information on the initial British proposals concerning tropical products and certain commodities which play an important part in the economy of the three independent countries considered, the chapters of this report dealing with these products should be consulted. The positions which the Lord Privy Seal adopted at the time on manufactured products from the developing countries of the Commonwealth call for special comment. In his statement of 10 October 1961, Mr. Heath had pointed out that developed countries had a duty "to facilitate international trade in this field as much as they can". He therefore requested the Six to "agree that it would not be in the general interest that the United Kingdom should erect fresh tariff barriers to cut back such trade". This was a cautious formulation which could be reconciled with the preceding more general statement to the effect that the British Government agreed "that indefinite and unlimited continuation of free entry over the whole of this field may not be regarded as compatible with the development of the common market".

1. The general problem

It is quite clear that any unqualified insistence by the British on regional solutions modelled strictly on the precedents of the Treaty of Rome (association under Part IV, Tunisia-Morocco Protocol)

would inevitably have met with opposition from the Six. Even leaving aside the difficulties from the angle of political and geographical homogeneity, the economies of India, Pakistan, Hong Kong and, to a lesser degree, Ceylon have special features which could suffice to make their incorporation into the complex of associated countries and territories an extremely delicate matter; one such feature is the existence of a manufacturing industry, already powerful in certain sectors and enjoying particularly favourable wages conditions, which would have made association under Part IV of the Treaty of Rome difficult. The same considerations, coupled with the ability of the three independent countries to export tropical products, made the Tunisia-Morocco Protocol solution inacceptable to the Six. Such a solution would on the one hand have involved grave threats of deflection of trade for the Community and on the other would have stripped association under Part IV of some of the advantages it offered to tropical producers.

The negotiations thus avoided the impasse of the existing regional solutions which were not appropriate for the countries in question, and moved in the direction of a quite original type of solution not foreseen at the beginning. Leaving aside divergences of detail by country, the gist of the agreements or draft agreements worked out can be summarized as follows:

a) The common customs tariff would in 1970 be fully applied to British imports from the countries concerned, but there would be a décalage in its introduction and the duties on certain products could be reduced, suspended or abolished.

b) A common policy should be settled, and this might go further than purely trade matters in order to maintain and even develop in reasonable fashion the growth potential of the countries concerned while at the same time it would offer the guarantees needed to safeguard Community interests.

At one and the same time this approach would have respected the tariff provisions of the Treaty of Rome and would have foreshadowed the liberal common commercial policy provided for

in the Treaty and confirmed by the Community. It was worked out by the Commission's delegation, in an endeavour to reconcile the various existing situations in a spirit consonant both with the Treaty and with certain recent developments in world trade relations (GATT agreement on cotton goods, bilateral agreements with Japan, etc.). The agreements and draft agreements existing when the negotiations were interrupted may be analysed as follows:

2. India, Pakistan

Introduction of the common customs tariff

a) For manufactured products and processed foodstuffs the common customs tariff would not have been introduced in full by the United Kingdom before 1 January 1970, except for the duties on jute and cotton textile products; here the final date for introduction of the common customs tariff would have been that resulting from the acceleration decisions, probably 1 January 1967. The timing of the alignment with the common customs tariff would have been 15 % on accession, 15 % on 1 July 1965, 20 % on 1 January 1967 (i.e. at this date a duty generally equal to 50 % of the duty under the common customs tariff), 20 % on 1 July 1968 and the remaining 30 % on 1 January 1970. This so-called "soft" décalage was adopted to make allowances for the vulnerability of the external trade of the two countries and the relative weakness of their competitive potential in the industrial field now and in the immediate future. Cotton goods and jute goods would not have benefited from the soft décalage precisely because exports from India and Pakistan in this field were considered likely to do immediate injury to the Community industries. For cotton goods provision was, nevertheless, made for a certain décalage, with due allowance for the special safeguard measures agreed upon: alignment with the common customs tariff was planned in four stages, of 20 %, 20 %, 30 % and 30 % respectively. No décalage was provided for in respect of jute goods but it should be noted that exports from India and Pakistan would to some extent have benefited from the facility accorded to the United Kingdom, within certain limits, of retaining until 1 January 1970 quantitative

restrictions with respect to most of the products from the Six so far barred from the British market by the Jute Control Office.

b) As regards the tropical agricultural products of the two countries, décalage in the introduction of the common customs tariff had been formally agreed only for vegetable oils and pepper. It seems in fact that when the negotiations were suspended, generalized application of the "soft" décalage to tropical products was in sight. This would have benefited India and Pakistan.

c) The following tariff measures had also been accepted by the Six to reduce the disadvantages that would arise for India and Pakistan when the United Kingdom applied the common customs tariff:

i) Zero duties on tea, lemon-grass oil, decolourized or bleached shellac, and handloom products (subject to certain technical customs arrangements). At British request the Community had further accepted a zero duty for two products of interest to these countries (polo sticks and cricket bats);

ii) Suspension of duties, indefinite or otherwise, in respect of a number of spices, essential oils and other tropical products of particular interest to exporters in the two countries, and of castor oil and desiccated coconut, products for which the British side also asked that the tariff be modified (see Chapter II, C);

iii) In response to British requests, the Six had made proposals concerning some manufactures of particular interest to India and Pakistan (heavy jute goods, East India kips, hand-knotted carpets, coir mats and matting). For these the Community declared its readiness to apply a partial suspension of duties under the common customs tariff of the order of 10 to 15 % of the listed duty, the suspension to be maintained either until the signature of trade agreements with India and Pakistan or until the end of the Kennedy negotiations. In making this gesture the Six wished to show that they were prepared to negotiate on the customs duties for these products when negotiations were started for a comprehensive trade agreement with the countries in question; these were to begin not later than three months after Great Britain's accession.

The United Kingdom Delegation did not consider this offer adequate. In January 1963 it abandoned its initial position on three of the products in question (hand-knotted carpets, coir mats and matting, heavy jute goods) and asked for a reduction of the duties instead of a zero duty in the common customs tariff. The reductions proposed, however, went much further than those contemplated by the Six. For another product (East India kips), the United Kingdom Delegation maintained its request for a zero duty.

d) The Six had not yet made any proposals on the problem of Indian tobaccos, as the Conference had not yet taken up the general problem of tobacco.

Common policy

As soon as the United Kingdom became a member, the enlarged Community would declare its readiness to start negotiating with India and Pakistan on comprehensive trade agreements which should be ready by the end of 1966 at the latest. The aim of these agreements would be to develop mutual trade "for the purpose of maintaining and, as much as possible, increasing the level of the foreign currency receipts of these countries, and in general of facilitating the implementation of their development plans". The means to be employed could concern in particular tariff policy, quota policy, export policy (guarantees to avoid disturbing the markets of importing countries), the encouragement of private investment, and technical assistance. The agreements could be concluded for a number of years and would be renewable; in connection with their implementation there would be the usual arrangements for consultation.

The Indian Government had expressed its agreement in principle with the idea of a comprehensive trade agreement envisaged by the negotiators. It had, nevertheless, indicated in this connection its desire that the United Kingdom should delay any introduction of the common customs tariff with respect to Indian exports until the agreement had been concluded or that, at least, the duties applied

should be no more than symbolic. This request in its general form was not favourably received by the Six.

The basic principles adopted for these trade agreements therefore defined only the main lines to be followed by the common policy, in particular the commercial policy, which the enlarged Community would pursue in its dealings with India and Pakistan. More specific arrangements were, however, agreed for cotton.

Cotton goods

A system of mutual guarantees had been envisaged by the negotiators for exports of cotton goods from India and Pakistan. The aims of this system were, on the one hand, to ensure that the introduction, even with décalage, of the common customs tariff should not harm these exports, which it should be possible to continue at a certain level, and, on the other, to afford special guarantees to the Community's cotton industries against disruption of the market caused by initial divergences between the trade and tariff policies of the Six and of the United Kingdom.

a) In order to make allowance from the outset for any possible compensations within the Community in favour of India and Pakistan, the point at which the guarantees offered to the exporting countries would begin to operate would be calculated on the final imports for retention of the whole enlarged Community and not of the United Kingdom alone. The concept of a drop in exports from India and Pakistan was defined by taking into account not only the level reached by these exports in the years immediately preceding the United Kingdom's accession but also the increases in this level which could be expected to result from the application of the GATT arrangement to imports of cotton textiles from developing countries (Geneva Agreement). Should the Commission note any such drop, it would make proposals to the Council, which would take a decision, in accordance with the provisions of the Treaty, to remedy the situation; failing this, the Commission could authorize the United Kingdom to postpone or suspend the implementation of the common customs tariff or to establish an

appropriate tariff quota. These arrangements were to be valid until 1 January 1967, after which they would in principle be replaced by the trade agreements.

b) In return the United Kingdom would endeavour to obtain the maintainance, at approximately the present levels, of its voluntary agreements with India and Pakistan limiting the exports of cotton goods; failing this, it undertook to put into operation the GATT safeguard clause on cotton goods.

The Commission was also instructed to follow the development of intra-Community trade in cotton textiles. If it found that British exports of cotton goods and plain made-up goods were expanding at an abnormal rate and were creating or threatening to create difficulties as a result of the supply of grey cloth from India and Pakistan to the British industry, the Commission was to invite the British Government to make the issue of a certificate of circulation for textile products processed in the United Kingdom and exported to other Member States subject to the payment of the full duty under the common customs tariff on semi-finished cloth imported from India and Pakistan and used in the said products. Should this arrangement prove ineffective, the Commission would as a matter of urgency authorize the Member State or States concerned to take appropriate measures in agreement with it.

These guarantees were to be maintained until such time as the common commercial policy was applied to trade with the countries concerned.

It was in the framework of such a commercial policy that the various problems were to have been solved.

3. Ceylon

Ceylon was of course to have benefited widely from most of the measures for tariff reduction and décalage envisaged in the negotiations, in particular those affecting certain tropical products. The adoption in the common customs tariff of a zero duty on tea would represent a substantial advantage for this country.

Furthermore, the principle of a declaration had been agreed. In this declaration the enlarged Community would express its readiness to conclude with Ceylon a comprehensive trade agreement of the type envisaged for India and Pakistan if the Government of Ceylon considered this advisable.

4. Hong Kong

When the negotiations were interrupted only the United Kingdom Delegation had officially submitted a relatively precise proposal; the Six had not yet drawn up definitive proposals in detail.

The most recent British position can be summed up as follows: the common customs tariff would have been applied by the United Kingdom to its imports from Hong Kong with the same time-limits and décalage as for similar goods from India and Pakistan. The future commercial policy of the enlarged Community towards Hong Kong was to have allowed, among other factors, for the British Government's responsibilities in respect of Hong Kong as a dependent territory and the need to improve, if possible, the living standards of the population. With this in mind provision would have been made for periodical consultations between the enlarged Community and the Government of Hong Kong to review the development of trade between the Community and the Territory. If any special problems had arisen it would have been for the Council, acting on a proposal from the Commission, to take all appropriate measures in conformity with the Treaty of Rome and with the principles of commercial policy defined above. Reciprocal guarantees, similar to those decided on for exports from India and Pakistan, would have been given forthwith in respect of exports of cotton goods from Hong Kong.

The Commission is firmly of the opinion that the problem of relations with Hong Kong could in the long run have been solved only in the framework of the Community's common commercial policy. In preparation for this policy, however, it would have been possible to envisage two arrangements immediately on British accession:

a) *Consultations*

These would have taken place periodically on the basis of a report prepared by the Commission. Their aim would have been the progressive liberalization of trade with Hong Kong and the examination of the impact on this territory of the gradual implementation of the common customs tariff. If the Commission should find that Hong Kong's interests were being threatened as a result of the implementation of the common customs tariff, the Community would take action under its commercial policy or, failing this, would authorize safeguard measures to be taken on the British market for the benefit of Hong Kong.

It should be noted that any progress made in liberalizing trade would depend largely on the system of control of origin applied in Hong Kong and, in certain cases, on the conclusion of voluntary agreements to limit exports.

b) *Safeguard measures in the event of disturbances in the Community market*

Since Hong Kong's exports are more diverse than those of India and Pakistan, it would have been appropriate to arrange that these safeguards should be of general application and not refer only to cotton goods. It would have been preferable to give these safeguards a Community character.

Finally, it would perhaps have been possible to grant Hong Kong, like the other Commonwealth countries, a certain décalage in the introduction of the common customs tariff by Great Britain, the details of this décalage being a matter for discussion.

C. ASSOCIATION

1. Renewal of the Convention of Association

Paragraph 11 of the statement made on 10 October 1961 expressed unqualified acceptance by the British Government of the objectives laid down in Article 3 of the Treaty, one of these being the policy of association in sub-paragraph k).

Paragraph 35 of this statement, however, drew attention to the opinion held by certain members of the Commonwealth that the

present arrangements for association were not appropriate for independent States. In the British view, however, this objection might not apply to the new arrangements once they were known. They would constitute a problem to be discussed between the United Kingdom and the Community, which was in the process of revising the existing association arrangements.

a) The Community was faced with a difficulty: it had to consider how an as yet undefined association system could be applied to countries for which it was not yet known whether or not they could be or wish to be associated.

The practical solution to this problem was for the Member States to keep the United Kingdom Delegation informed of the results of the negotiations with the Associated African States and Madagascar (AASM) while these negotiations were in progress. In this way information was exchanged on the two negotiations which the Community was conducting.

b) Once they were in possession of the text, recently initialled, of the Convention of Association, the United Kingdom Delegation, acting on a Conference decision, consulted the Commission on certain points of the Convention which, in their opinion, needed elucidation. The discussions on these points were still in hand when the negotiations were suspended.

The United Kingdom Delegation had stated their agreement with the objectives of the Association. They had explicitly agreed to certain points, namely the measures provided for in Article 2 (2) of the Convention, relating to the advance introduction of the common tariff for certain tropical products. It seemed that in regard to other matters on which they had not yet given their agreement, the United Kingdom Delegation would have been able to accept the results of the negotiations with the AASM.

However, the question of the United Kingdom's participation in the Development Fund still remained to be discussed. The United Kingdom Delegation had already stated that they agreed in principle to a United Kingdom contribution to the Fund, but neither the size nor the procedure for this contribution, nor the

financial problems relating to an extension of the Association, had yet been discussed.

c) The preoccupations of the United Kingdom Delegation concerning the new Convention related mainly to institutional questions and to economic relations between the Associated States and third countries. It appears unlikely that anything would have prevented final agreement by Great Britain.

The problems of financing the Fund were more delicate inasmuch as they were connected with those of extending the Association itself. The basis of any solution would have had to be a fair apportionment of the burden among all the Member States participating in the rights and obligations of this Convention.

2. Offer of association (dependent and independent Commonwealth countries)

The British view on the matter of association was set out in the statement of 10 October 1961:

"... in any case, we should like to see the less developed members of the Commonwealth, and our Dependent Territories, given the opportunity, if they so wish, to enter into association with the Community on the same terms as those which will in future be available to the present Associated Overseas Countries and Territories... Association may, therefore, be a solution for the problems of many Commonwealth countries and territories..." (paras. 35, 36).

The United Kingdom Delegation had accordingly furnished a list of the countries for which the right of association would be recognized. They would include all the independent and dependent countries of Africa and the Caribbean and most of the other dependent territories in the Commonwealth.

Moreover, the United Kingdom Delegation considered that an offer of association should be made to the independent countries of the Commonwealth, in order that their situation might be settled before a decision had been reached on United Kingdom membership.

a) The nature of association is directly connected with the number and the character of the countries taking part. It seemed therefore very difficult to recognize, a priori, a right of association for countries so different geographically, economically and politically.

Thus the possibility of association should depend on certain objective criteria. Moreover, the procedure to be used would be different if the countries in question were dependent or if they were independent. Finally, the Community had to conform with the accession clause in the new Association Convention, which provided for prior consultation without the associates having a right of veto.

The Community was, nevertheless, prepared to give favourable consideration to applications from independent countries having characteristics similar to those of the present associates.

b) For the dependent Commonwealth countries it seemed that association would be the most appropriate solution in the vast majority of cases.

The list of these countries reads as follows:

1. *Africa and the Indian Ocean*

Gambia, Kenya, Mauritius, Zanzibar Protectorate, Seychelles.

2. *Caribbean*

Antigua, Barbados, Dominica, Grenada, Montserrat, St. Lucia, St. Vincent, St. Christopher-Nevis-Anguilla, British Honduras, British Guiana, British Virgin Islands, Bahamas, Bermuda, Cayman Islands, Turks and Caicos Islands.

3. *Pacific*

Fiji, Tonga, Pitcairn Islands Group, British Solomon Islands Protectorate, Central and Southern Line Islands, Gilbert and Ellice Islands (including the Phoenix and Northern Line Islands Groups), (New Hebrides Condominium).

4. *South Atlantic*

St. Helena and Dependencies, British Antarctic Territory, Falkland Islands and Dependencies.

After the Conference of Commonwealth Prime Ministers, the United Kingdom Delegation had expressed the opinion that association under Part IV of the Treaty would probably be an acceptable solution for most of the dependent countries on this list. It appears that at the time when negotiations were adjourned the United Kingdom had not been able to hold consultations that would have been necessary before decisions could be reached in this matter.

c) As regards the independent countries of Africa and the Caribbean and those about to attain independence, it was agreed that, if they so wished, association under the new Convention would constitute in principle an appropriate solution for the problems involved in the United Kingdom's accession and that consultations would take place in due course between the Member States of the Community and the British Government with a view to such association.

In the event of certain of these countries not being associated, other arrangements would be sought.

Subsequently three countries, namely Ghana, Nigeria and Tanganyika, declared that association would not be an acceptable formula for them. Moreover, Nigeria and Tanganyika suggested that the possibility of trade agreements with them should be considered, while Kenya reserved its position for the time being.

3. Alternative solution to association

In his Paris statement of 10 October 1961 Mr. Heath had envisaged the possibility that it might not prove possible to associate certain countries of the Commonwealth, and had pointed out the gravity of the problem which such a situation would bring about since, as he said: "They would certainly not understand if, as a result of becoming a member of the Community, the United Kingdom were obliged to discriminate against them in favour of other non-European countries" (para. 34).

The solution suggested in this case was either to grant them, as in the past, duty-free admission to the British market, by analogy

with the arrangement adopted for Franco-Moroccan trade and for trade between Surinam and the Benelux countries, or to make suitable arrangements for each product separately.

a) Following the Commonwealth Prime Ministers' Conference, at which the independent countries to whom association was offered had rejected it (with the exception of Trinidad and Tobago, which favoured association, and Sierra Leone and Jamaica, which reserved their position), the United Kingdom Delegation consulted the Member States of the Community with regard to the alternative arrangement which the Conference had agreed to seek in this event.

On this point the British asked that:

i) The possibility of association at a later date be kept open;

ii) A statement be made to the effect that in due course the enlarged Community would be prepared to negotiate trade agreements with those Commonwealth countries which were not associated;

iii) An endeavour be made to minimize the possible damage to these countries by reducing or abolishing certain duties in the common tariff and by maintaining the present system for imports from these countries into the United Kingdom, subject to trade agreements to be concluded between these countries and the Community.

b) It was becoming clear that a number of Commonwealth countries would not wish to accept association, and this would certainly raise difficulties both with regard to the future of the Association itself and with regard to the establishment of harmonious relations between the enlarged Community and Africa as a whole.

Moreover, there could be no question of granting countries who refused association, by means of trade agreements, advantages equal to those conferred by association.

Any tariff concessions going beyond the decreases decided upon in the negotiations with the AASM raised very great problems. Similarly, to waive the introduction of the common tariff for

goods originating in these countries for an indefinite interim period would have been a major departure from the rules of the Treaty. It was therefore desirable to give these countries time to reconsider their position, and in this connection to envisage a progressive implementation of the common tariff applicable to imports of their goods into the United Kingdom, by means of a "soft" décalage.

c) Following a proposal by the Commission, an agreement on the arrangements to be made for the Commonwealth countries which had decided not to apply for association was reached on the following lines:

i) The possibility of association would remain open to these countries on the basis of Article 58 of the new Convention of Association.

ii) Trade agreements could be concluded between the enlarged Community and these countries. These agreements would not confer the same advantages as association, and they would not go as far as the agreements to be concluded with India and Pakistan. The scope of these agreements would be considered later;

iii) Imports from these countries into the United Kingdom would benefit from the system of "soft" décalage in the alignment of the British tariff with the common customs tariff as agreed for manufactured goods from India, Ceylon and Pakistan.

The agreement reached seems fair and satisfactory, one of its main advantages being a certain flexibility of timing which leaves open various possibilities.

4. Tropical products

Paragraph 37 of the statement made on 10 October 1961 offered an alternative solution for the problem of tropical products from those Commonwealth countries which remained unassociated:

i) Either to grant free entry into the United Kingdom market alone for the Commonwealth country or territory which is not associated, and then to fix the common tariff at a level which would

safeguard the interests both of that country and of the countries and territories associated with the Community;

ii) Or to fix at zero or at a very low level the common tariff for a limited number of products.

The relevant proposals concerned a dozen products or groups of products. The requests for zero duties (tea, wood, cocoa, palm oil, spices, etc.) would correspond in value to about 40 % of all United Kingdom imports of tropical products, while the requests for lower duties (coffee, vegetable oils, pineapples and pineapple products, etc.) or for tariff quotas would represent a little over 10 % of these imports.

These requests related to all main agricultural exports of the African and Asian Commonwealth countries and consequently were of direct concern to those of the Associated States. On the other hand, the duties on the more important West Indian products (in particular bananas) were in general unaffected. One product was even the subject of a request for an increased duty (lime oil).

a) The British requests were in fact directed at a complete transformation of the common tariff relating to tropical products and went far beyond the tariff reductions envisaged under the new Convention of Association. Furthermore, it seemed hardly logical to modify the common tariff to accomodate the interests of countries to whom the possibility of association had been offered when it was not even known whether they would in fact be associated.

Consequently, the requests relating to products which were of major concern to the associates could not be given favourable consideration.

b) An agreement was reached on the suspension of duties on tea, woods (under the procedure laid down when list G was being negotiated) and certain products of very secondary interest to the AASM (such as cashew nuts, ginger, sandalwood oil, etc.).

For the other tropical products of interest to the Commonwealth countries which could not be associated, it was agreed that exports

to the United Kingdom could benefit from the "soft" décalage, introducing the common tariff in accordance with the timing laid down for manufactures from India, Ceylon and Pakistan.

Only one category of tropical products remained to be examined, namely semi-processed cocoa products, for which the United Kingdom Delegation requested a reduction equal to that agreed for cocoa beans in the course of the negotiations with the AASM. This request did not appear to be unjustified or unacceptable.

D. OTHER COMMONWEALTH COUNTRIES

1. Basutoland, Bechuanaland and Swaziland

For these territories, which are under the authority of a United Kingdom High Commissioner, the United Kingdom Delegation had asked for association under Part IV of the Treaty of Rome.

The difficulty lay mainly in the fact that these territories are included in the South African Customs Union and that certain technical problems arise in determining the origin of the goods and in the obligation flowing from Articles 132 and 133 of the Treaty of Rome.

After numerous discussions at both working party and Deputies' level, it was agreed to apply to these territories a system similar to that in the Protocol to the Treaty relating to goods originating in and coming from certain countries and enjoying special treatment on importation into one of the Member States.

2. Aden

The United Kingdom Delegation had expressed the wish that Aden also might be associated under Part IV of the Treaty of Rome.

The Six had no objection to this in principle; but in view of Aden's geographical position and special situation with regard to oil they were inclined to consider an ad hoc protocol.

At the thirteenth Ministerial Meeting of 15, 16 and 17 November the Conference agreed upon the following arrangements:

i) Upon the United Kingdom's accession to the EEC, Aden could be associated, subject to the conclusion of a protocol on the export of petroleum products to the EEC;

ii) The provisions of this protocol, which should provide a fair arrangement in this field, could be adopted on an ad hoc basis at a later stage;

iii) Pending the conclusion of this protocol, Aden's petroleum products would be subject to the arrangements applicable to third countries;

iv) If any changes occurred in the status of Aden, the position of this territory would have to be re-examined.

3. Federation of Malaysia

As regards the proposed Federation of Malaysia, a major exporter of products on which the duty in the common customs tariff is already at zero, the problems raised by Great Britain's accession would seem to have been of secondary importance.

The Community, however, was prepared to consider negotiations for a trade agreement with the Federation of Malaysia if the latter so requested and if it proved necessary in order to maintain and develop mutual trade.

Exports from the Federation of Malaysia to the United Kingdom would furthermore have enjoyed the same décalage as that laid down for India, Pakistan and Ceylon.

4. Malta

Malta enjoys a considerable degree of autonomy. Its constitution lays down, however, that the United Kingdom shall retain certain rights regarding foreign policy (Article 83 of the Constitution of Malta).

The United Kingdom Delegation stated on several occasions that they were prepared to give Malta the necessary powers to negotiate for association with the Community under Article 238 of the

Treaty. Those powers would extend to carrying out any agreement concluded.

Among the Six, however, it was considered that Malta's constitutional position might still give rise to legal uncertainties or difficulties. Consequently it was suggested that a transitional solution should be adopted for Malta.

In this connection, the Six proposed that a special protocol be drawn up providing for the possibility of association at a later date when the constitutional position of Malta so permitted.

The protocol might include elements of a customs union. It could be negotiated between the Community and the United Kingdom Government, but the possibility was left open that the United Kingdom Government might invite the Maltese authorities to take part in these negotiations.

At the fifteenth Ministerial Meeting the Lord Privy Seal, after consulting the Government of Malta, said he was prepared to accept the proposals of the Six.

5. Cyprus

The Government of Cyprus addressed a letter dated 10 December 1962 to the President of the Council asking that negotiations be opened with a view to reaching an agreement on association with the European Economic Community in accordance with Article 238 of the Treaty of Rome.

At its session on 24 January, the Council of Ministers agreed to initiate the appropriate procedure for these negotiations.

6. Gibraltar

The United Kingdom Delegation had submitted a proposal regarding an arrangement for Gibraltar in which it was suggested that in due course Gibraltar should become an integral part of the Community [(Article 227 (4)]. The British Government, however, suggested that an interim period of a few years should be devoted

to more intensive examination of the problems presented by this territory. Meanwhile, the United Kingdom Delegation proposed that Article 227 (4) should not be applied immediately following Great Britain's accession to the Community. As a result, Great Britain wished that no changes should be made in the customs treatment at present applied to imports of goods originating in or coming from Gibraltar.

The Six did not have the opportunity to study these proposals, which admittedly raised problems of principle but not insurmountable difficulties, having regard to the scale of the problem.

7. Federation of Rhodesia and Nyasaland

At the time of the negotiations, the Federation of Rhodesia and Nyasaland was in a rather special constitutional situation. In these circumstances, the problems which Great Britain's accession could raise were approached in a special way. Up to the time when the negotiations were suspended, detailed study had not been possible (neither had it been possible to discuss the tobacco problem, which is important for this country).

E. STATES NOT BELONGING TO THE COMMONWEALTH BUT ENJOYING COMMONWEALTH PREFERENCE

These are Burma, various Arab States and—most important of all—South Africa (1). These States, although not members of the Commonwealth, benefit from the British preferential tariff.

A problem with regard to the alignment of the British preferential tariff with the common customs tariff would have arisen in particular for South Africa, which sends considerable exports to the United Kingdom. The views of the South African Minister of Economic Affairs were heard on 20 November and South Africa had sent a memorandum to the Conference. Up to the time when the negotiations were suspended these problems had not yet been studied in substance.

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(1) Ireland also comes into this category, but the case of this country came up in a different context, as it had applied for membership of the Community (see Chap. VI).

It does not appear, however, that transitional solutions based on the technical elements of the problem would have been impossible.

F. PROBLEMS OF THE COMMONWEALTH AND OF COMMONWEALTH PREFERENCE

1. Décalage

As has been explained in the previous sections, the Six had agreed with the United Kingdom Delegation that the phasing by which the British preferential tariff was to be adapted to the common customs tariff should in many cases be different from that stipulated in Article 23 of the Treaty of Rome. The scope and content of this proposal, which was put forward by the Commission, have already been indicated; in particular Great Britain would have had to effect a first alignment of its preferential tariff immediately upon joining the EEC, and would have had to apply the common customs tariff in full not later than 1 January 1970. Nevertheless, there was reason to fear that the décalages might lead to deflections of trade in certain cases and in certain years, inasmuch as the rigidly parallel development provided for in the Treaty of Rome between the diminution of intra-Community duties and the alignment of national duties with the common customs tariff would be waived for a considerable proportion of British imports.

a) This disparity during all or part of the transitional period raised the problem of goods imported into Great Britain under these special arrangements being assimilated to goods imported under the normal provisions of the Treaty. If they were so assimilated, the effect might be that the Member States would have excessive recourse to the safeguard measures provided for in Article 115 of the Treaty and in practice this might have undermined the principle of the free movement of goods within the Community, or even have led to the isolation of the British market for certain products. On the other hand, there was no reason to exaggerate the problem, particularly as it was by its nature transitional.

Although the Conference was aware of these questions, the Six had settled them neither among themselves nor with the United Kingdom Delegation when the negotiations were suspended.

b) A possible solution, making broad use of the institutional procedures provided by the Treaty, might have been as follows:

i) In principle, goods imported from Commonwealth countries and benefiting from the décalage would have been considered as beign in free circulation within the meaning of Articles 9 (2) and 10 (1); in other words, these goods would have enjoyed the benefit of the intra-Community quota and tariff system on importation into a Member State.

ii) Special arrangements would have been introduced for the whole or part of the transitional period for any items in which deflections of trade via the United Kingdom of goods originating in Commonwealth countries and territories enjoying benefit of the décalage threatened to cause serious disturbance on the markets of the other Member States. The list of these items would have had to be established having regard not only to the value during the transitional period of the tariff benefit arising from the deflection via the United Kingdom, but also to the scale, as compared with Community consumption, of the United Kingdom's imports from the Commonwealth countries and territories enjoying benefit of the décalage.

The list of products subject to a special arrangement would initially have been established in the treaty of accession, but could have been altered subsequently by a decision of the Council on a proposal from the Commission.

Any product included in the list for a given period would have been barred, if exported from the United Kingdom during this period, from the benefit of free circulation within the meaning of Articles 9 (2) and 10 (1) of the Treaty of Rome, unless the United Kingdom could furnish satisfactory proof that the product did not originate in a Commonwealth country or territory benefiting from the décalage.

iii) In the event of an abnormal growth of the United Kingdom's exports to the rest of the Community of a product not on the list, the British Government would have been required to take appropriate action.

If such action proved inadequate, the Council, on a proposal from the Commission and acting by a qualified majority, could have decided on other measures. In particular, it could have excluded the product in question from the benefit of free circulation under the conditions referred to above; failing this, after two months had elapsed, Member States could have resorted to Article 115.

c) The Conference also agreed to review, at a final stage, the different décalage systems which had been planned. Here, the question of harmonizing them in the interests of simplification would have had to be considered not only in relation to the problems described above, but also according to the countries and products concerned. These technical questions remained unsettled.

2. Preferences granted by the Commonwealth countries to Great Britain

The décalage system was in most cases an adequate solution to the problems raised by the existence of preferences on the British market in favour of the Commonwealth countries. It should, however, be recalled that Commonwealth preference includes some measure of reciprocity: the Commonwealth countries themselves grant Great Britain preferences, which are in some cases of substantial importance for its own exports.

These preferences vary widely from country to country and from product to product, and only a thorough study would have revealed exactly how far they prejudiced equality of competitive conditions for the various Member States on external markets.

It seems that once the question had been raised, some arrangement should have been made concerning the procedure for dealing with it, possibly in connection with the discussions to be held later at GATT; though the economic interests at issue were mainly those of Great Britain, the decision in legal terms could only lie with the various Commonwealth countries, which control their own customs tariffs.

G. COMMONWEALTH AGRICULTURAL EXPORTS

Temperate foodstuffs

At the outset of the negotiations the British Government drew attention to the importance for the Commonwealth countries of their exports of temperate foodstuffs. The United Kingdom had both moral and contractual obligations to fulfil, and was faced with the problem of reconciling its obligations to the Commonwealth with participation in a common agricultural policy. In order to solve this problem, the United Kingdom proposed that special provisions be worked out whereby the Commonwealth countries might count on outlets for their products comparable to those they already enjoyed.

1. In so far as the United Kingdom was seeking a permanent solution to the problem of the exporting Commonwealth countries, the objections of the Six to the British concept were twofold:

a) In the first place it seemed to them difficult in view of the world-wide aspect of the problem to consider these countries' difficulties in isolation. They pointed out that the enlarged Community when it included the United Kingdom would constitute the largest importing bloc in the world. Its wheat imports would amount to approximately half of the total world commercial imports; for dairy produce, the figure would be two-thirds; for meat, three-quarters; for sugar, a third.

This decisive position in world trade imposed on the enlarged Community a heavier responsibility of which it must be aware.

b) In the second place, exceptions in the uniform protective system which was to be applied to trade with non-member countries under the common agricultural policy—exceptions which the United Kingdom hoped to obtain in the interests of its trade with the Commonwealth—would compromise the satisfactory operation of the common agricultural policy and might in fact result in the British agricultural market being isolated from the market of other Community countries.

Moreover, such exceptions would of necessity be quantitative in nature, and this did not conform with the principles of the common agricultural policy.

In the light of these considerations, the starting point of the Six in these discussions was therefore that Commonwealth problems were not to be given a permanent solution by means of specific measures in favour of those countries alone. A permanent solution could only be sought within a world-wide context.

However, if the exporting countries of the Commonwealth ran into difficulties in adapting themselves, the Six indicated their willingness to seek transitional solutions taking into account any real difficulties which might arise and thus permitting a progressive adaptation of the Commonwealth countries concerned to the new situation created by Great Britain's entry into the Community.

2. It was on the basis of the Commission's proposals that a large measure of agreement on the broad lines of a long-term solution and of the transitional measures, in particular for cereals, was reached at the tenth Ministerial Meeting of 1-5 August 1962.

a) As regards the long-term solution, the agreement provided that the enlarged Community should take the initiative of calling as soon as possible, and preferably in 1963, an international conference of the principal exporting and importing countries in order to reach world-wide agreements for cereals, meat, dairy produce and sugar.

i) The object of this Conference would be to work out the structure of international trade in agricultural products best calculated to ensure a balance between the interests of producers and consumers in exporting and importing areas. The Conference would, among other things, deal with price and production policies, the minimum and maximum quantities entering international trade, stock-piling policy and trade with developing countries. The world-wide agreements would be subject to revision every three years and would provide for institutions to watch over their execution.

ii) In order to avoid certain countries suffering by reason of a breakdown of the Conference due to the attitude of other third countries, it was proposed that the Community should in these circumstances be prepared to enter into consultations with a view to concluding agreements with such of the importing and exporting countries—and particularly with those of the Commonwealth—as would have been prepared to conclude world-wide agreements on the same basis as the enlarged Community.

iii) In view of the impact of price policy on the volume of production and thus on the outlets available to exporting countries, it was provided that the Community, upon or even before the accession of the United Kingdom, should make a declaration expressing its intention to define its price policy as soon as possible and to pursue a reasonable price policy in conformity with the objectives of Articles 110 and 39 of the Treaty of Rome. As regards this price policy of the enlarged Community, there was still however a difference of opinion. The United Kingdom Delegation took the view that the Community should state more explicitly its intention to take full account in its price policy of the interests of third countries and in particular of those Commonwealth countries which would be important suppliers of the Member States of the enlarged Community.

b) Pending the conclusion of world-wide agreements or, failing this, agreements of more limited geographical scope, and at most for the transitional period of the Treaty of Rome, provision was made for transitional measures which would mitigate for the Commonwealth countries the possible consequences of the progressive implementation of the common agricultural policy in respect of cereals and flour, dairy produce, meat and sugar.

i) The solution proposed on 5 August specified these measures for cereals. The Community recalled first of all its intention to fix the standard reductions (1) in such a way as not to cause any abrupt and significant shift in trade flows. If, however, the application of the standard reduction were to cause such a shift in the United

(1) *"Abattements forfaitaires"*

Kingdom market, the Community undertook to review the way in which this standard reduction would be applied after consultation with the Commonwealth countries.

Moreover, in the event of there being at the time any tariff preference for cereals, the United Kingdom would be entitled to allow imports from the Commonwealth countries to benefit in its market from part of the standard reduction applicable between Member States, phasing it out by the end of the transitional period. There was still, however, some difference of opinion on how this phasing-out process should be applied.

ii) It was provided that measures of the same type could be adopted for those other products to which a levy system would be applied. These products would be studied in detail at a later stage in the negotiations.

3. The United Kingdom Government had, moreover, formulated the following requests:

For beef and veal : Having regard to the agreements with Australia and New Zealand, unlimited entry into Britain at the present preferential tariff until 30 September 1967, and thereafter preferential tariff quotas based on a recent reference period. The United Kingdom also requested a "soft" décalage for the introduction of the common customs tariff in respect of the Commonwealth countries.

For mutton and lamb : Pending the establishment of the common agricultural policy for these products, authorization to suspend the introduction of the common customs tariff and to maintain its own deficiency payments system.

If in the course of the periodic reviews that were to be instituted the Commission should find that the market for these meats was adversely affecting the market price of other meats, the United Kingdom would take appropriate measures; these, in any case, should not be incompatible with its obligations under the agreements with Australia and New Zealand.

Finally the common agricultural policy for these products should ensure the Commonwealth countries satisfactory outlets in the enlarged Community and maintain an adequate level of income for Community producers.

For sugar : That it be allowed to continue to operate the Commonwealth Sugar Agreement until the end of 1969 and possibly prolong it after consulting the Community.

For flour : That the fixed component of the levy be reduced and implemented progressively at the reduced rate.

4. As has been pointed out a number of points were still awaiting decision.

i) With regard to the long-term solution, the first point was the price policy of the enlarged Community. It would seem, however, that the paragraph in question already expressed satisfactorily the Community's repeatedly confirmed intention of taking full account of its external responsibilities. The British request that a distinction be made between traditional suppliers and the other third countries would have led to discrimination contrary to the letter and the spirit of international trade agreements.

ii) As regards the divergence of views on that part of the standard reduction to be granted the Commonwealth countries during the transitional period, this point was of relative importance. Since the Seven were in agreement both on the principle that the United Kingdom could extend to its imports from the Commonwealth the benefit of the standard reduction arrangements in force between the Member States and on the fact that this advantage would be tapered off, it should have been possible to find an agreement on exactly how this would be done to make sure that the Commonwealth countries received satisfactory treatment without being put on the same footing as Member States of the Community.

iii) The British requests concerning the other products referred to above were of fairly wide scope and often difficult to accept. For dairy produce and sugar, it was moreover difficult to discern solutions inasmuch as the common agricultural policy was not yet

defined. It seems, however, that it would not have been impossible to meet the needs of the Commonwealth countries by adopting, as had been suggested, some of the measures put forward on 5 August, particularly for cereals. It is, of course, evident that this was a general principle and its application to dairy produce and sugar would still have to be discussed in full and would depend in particular on the actual machinery used (levies for instance); this had not yet been settled under the common agricultural policy.

For beef and veal, the same approach could have been followed; on the basis of the decisions which would have defined the common agricultural policy for these products possible analogies with the arrangements already proposed on 5 August could have been found.

For mutton and lamb, it would have been possible to put forward a satisfactory solution based primarily on Article 25 of the Treaty of Rome.

Other farm products of interest to the Commonwealth

1. The United Kingdom Delegation had also submitted a number of requests for preferential or special treatment covering a large variety of less important products from the Commonwealth. These included:

i) Levy-free quotas for pigmeat and eggs;

ii) Duty-free quotas for apples and pears from Canada, Australia and New Zealand and for tobacco from Canada and India;

iii) A preferential tariff quota for wine from Australia;

iv) Changes in the common customs tariff for oranges, grape-fruit, food preparations of tapioca and sago and Cheddar cheese (for the latter the gradual application of the common customs tariff had also been requested);

v) A reduction in the fixed components of the levy and a "soft" décalage for the application of this levy to manioc, sago, tapioca, arrowroot and similar products;

vi) The application to rice of the same system as that laid down for cereals from Commonwealth countries which enjoyed a tariff preference.

2. In general, the Six had not taken any specific stand on these requests nor had they been discussed at length in the Conference.

It would seem that a décalage solution could have been sought for these products in so far as they are liable to duties, and that arrangements analagous to those put forward on 5 August for certain cereals during the transitional period could have been applied in cases where they are subject to a levy system.

The case of New Zealand

1. In that part of his statement of 10 October 1961 relating to the problems of the Commonwealth, Mr. Heath had pointed out in particular that New Zealand was likely to suffer grave prejudice if it could not be assured in the future by one means or another of comparable outlets for its products.

At the Ministerial Meeting of 1-5 August 1962, statements had come from among the Six which suggested that they recognized the existence and importance of this problem. However, as discussions on the matter among the Six had not been concluded, there was no discussion with the United Kingdom Delegation on the substance.

2. The Commission holds that New Zealand's special situation can be recognized as regards butter, because of butter's place in that country's exports and the particularly difficult position of this product on world markets. In this connection the Commission considers that the Conference should have sought the best practical means by which New Zealand could gradually adjust itself to the new situation that would have been created by United Kingdom membership of the Common Market.

It must however be recognized that a complete appraisal of any solution consonant with such an objective would depend on the Community itself having first defined more clearly the common

policy to be followed in the dairy produce sector and—inasmuch as the implementing details would have included financial aspects—that agreement had been possible on the financial regulation under the common agricultural policy.

More generally, it should be noted that although it had already proved possible to envisage broad agreement on the lines along which the problems raised by Commonwealth agricultural exports were to be solved, certain elements required for the implementation of these solutions still did not exist. This was particularly the case with these products on which the Community had not fixed its policy—a problem dealt with in Chapter III below—and with the interpretation of the financial regulation, a subject dealt with in Chapter IV.

CHAPTER III

United Kingdom agriculture

In his statement of 10 October 1961 Mr. Heath had said that the United Kingdom was in full agreement with the aims proposed by the Treaty of Rome with regard to agriculture, that Great Britain was prepared to participate in a common agricultural policy and fully accepted that the Common Market must extend to agriculture and trade in agricultural products (para. 47). "This, however, poses big problems for us." (para. 48).

Mr. Heath then pointed out the peculiarities of the agricultural system in Great Britain, in particular the existence of direct subsidies and guaranteed prices, and mentioned the special problems which the United Kingdom would face in the sphere of agriculture when it became a member of the Community. In view of these problems, the British Government asked for arrangements to cover an annual review and guarantees for farmers and to allow for the gradual introduction of the changes required in the British agricultural system in order to integrate it into the Common Market.

After the first decisions on the common agricultural policy had been taken in January 1962, Mr. Heath said that although the United Kingdom had not taken part in formulating these decisions it would accept the common policy as set out in the regulations, subject to adjustments which would have to be made to allow for the increased size of the Community.

A. ANNUAL REVIEW AND GUARANTEES TO COMMUNITY FARMERS

1. In the opinion of the United Kingdom Delegation the annual review would have to be based on national reviews carried out by the Member States. The results of these reviews would be communicated to the Commission, together with any observations which the Member States might wish to put forward, the Commis-

sion itself drawing up the annual Community review on the basis of these facts and of information from any other sources.

One point to be covered by the annual review would be the trend of farm income in relation to total national income in each Member State. If this review showed that the agricultural population of any member country was not assured a fair standard of living, it would be for the Commission, at the request of that member country, to submit to the Council proposals by which the situation could be remedied.

2. The Six had received the idea of an annual review with favour. They emphasized, however, that the survey of incomes should be made at Community rather than national level and that the Commission should be free to decide whether the results of this review called for any measures; such measures should, moreover, be of a Community nature.

3. At the ninth Meeting on 20 and 21 July 1962, the Conference adopted a composite decision which covered both the British request for an annual review and the British request for guarantees to Community farmers. This laid down that the annual review of the situation and of the economic prospects of agriculture in the Community would be made by the Commission, independently of any reviews which might be carried out by Member States. The decision specified the information to be supplied to the Commission by the Member States for the purposes of this review, which would include details on the situation during the year under review, numbers engaged in agriculture, the trend of profits from farming, the trend of the individual earnings of those engaged in agriculture, and the financial aspects of the common agricultural policy.

The Commission would report the results of the annual Community review to the Council of Ministers and would make any appropriate proposals to the Council. These results would also be used in the decisions on the implementation of the common agricultural policy.

Finally, it was laid down that if the annual review showed that agricultural income was not providing a fair standard of living in accordance with the objectives of Article 39 of the Treaty for the farming population of the Community or of particular areas, the Commission would take up the question and make proposals within the context of the common agricultural policy for remedying the situation.

B. INTEGRATION OF UNITED KINGDOM AGRICULTURE

In his statement on the first agricultural policy decisions, Mr. Heath had said that the British Government accepted these regulations, subject to the adjustments that would be necessary:

a) To allow for the drastic change in the supply and demand situation within the Community as a whole resulting from the accession of the United Kingdom and certain other countries;

b) To meet the Commonwealth countries' vital needs and to enable the United Kingdom to fulfil its obligations to the Commonwealth;

c) To enable the system in force in the United Kingdom to be harmonized smoothly and gradually with the new system to be established;

d) To expand the regulations on certain points.

Regulations on the organization of the cereals, pigmeat and egg markets

1. Problems concerning these products arose mainly from the fact that the United Kingdom's agricultural support system is not the same as the system established under the common agricultural policy.

In the Community system, protection at the frontier ensures remunerative prices for farmers. These prices are, however, subject to certain fluctuations.

On the United Kingdom Market, on the other hand, prices of farm products are formed freely under the influence of world prices.

Thanks to the system of deficiency payments, United Kingdom producers enjoy guaranteed prices fixed annually by the Government.

These differences underlie the United Kingdom Delegation's requests for adjustments in the sectors of cereals and processed products; these spring from the British desire:

a) To ensure that the gap between consumer and producer price levels is reduced gradually, and so to avoid the harmful effects for the British economy of a sudden sharp rise in consumer prices which would result if these regulations were implemented as they stand;

b) To retain temporarily the price guarantees to British farmers;

c) To respect the pledges made by the British Government for the lifetime of the present Parliament.

2. According to the United Kingdom Delegation, these requirements could have been met by retaining the guaranteed prices, and the deficiency payments calculated from them, for the duration of the transitional period (1).

Within this system, the British Government was prepared for British consumer and producer prices to be aligned progressively on Community prices.

In general, the United Kingdom Delegation stressed that to adapt its agricultural system to the Community system their country would have to make far more substantial adjustments and more radical changes than any of the Six, and consequently they asked for a longer transitional period for the United Kingdom, at least in respect of certain products. The desire of the British side to give their farmers greater certainty as regards prices prompted a further request for additional measures to be introduced into the common agricultural policy.

(1) Subject to certain details particularly as regards the length of time which the United Kingdom Delegation proposed during the last phase of the negotiations for the retention of this system.

3. In addition to these requests, which applied to all the products in question, the British Government asked specifically for the following:

a) *Wheat :* The United Kingdom asked that the lower limit of the target price bracket be moved downwards to include a price corresponding to the guaranteed British price at the wholesale stage. The aim was to avoid the difficulties which an increase in price would create for the volume of production and the present structure of British agriculture. Such difficulties would be additional to those suffered by consumers and producers of processed products through the alignment of consumer on producer prices.

The United Kindgom further wished to carry out this alignment in two stages, the first at the beginning of the crop year following accession, the second one year later.

United Kingdom prices would from then onwards be fixed in conformity with the regulation on cereals.

b) *Barley :* Since the target price corresponding to the British guaranteed prices lay within the current target price bracket valid in the Community, the United Kingdom's only request was that it should align its market prices on producer prices over a period of three to four years after accession.

This request reflected the desire to raise the market price of barley gradually in view of the repercussions of such a rise on the prices of the processed products.

c) *Oats :* The United Kingdom asked, in view of its considerable output of this cereal, that the regulation on cereals be amended to enable target prices and intervention prices for oats to be fixed in those Member States which are major producers of oats.

d) *Pigmeat :* In order to avoid a sudden excessive rise in the market price, the United Kingdom wished to raise it gradually in the following manner:

i) In the first year following accession, from the present level to at least 230 DM per 100 kg.

ii) In the following six months, to 244 DM.

iii) By 5 % each year thereafter.

Under this scheme, deficiency payments would be retained until the market price reached the level of the price guaranteed to British producers.

For the single market stage, the United Kingdom Delegation asked for Article 9 (2) of the regulation on pigmeat to be strengthened in such a way as to provide for immediate intervention measures instead of leaving it to the Community's institutions to decide on the advisability of such measures. The procedure for applying them could be decided at a later date.

This request was based on the argument that the enlarged Community would include all the main importers and exporters of pigmeat and that consequently supply and demand within the confines of the Community would be the determining factor in the price of this meat. This meant that major market fluctuations could occur if there were no machinery to cope with them.

e) *Eggs :* In order to permit of gradual adjustment, the United Kingdom asked for step-by-step abolition of deficiency payments over a prolonged transitional period. The timing would have to be decided largely in the light of movements of feed grain prices, the rise in which, the British thought, should be absorbed by the producer himself.

The United Kingdom Delegation also asked that the regulation on eggs be altered to permit of market intervention on a national basis during the transitional period and on a Community basis at the single market stage. Such intervention would be optional, and related to a guide price.

The United Kingdom considered that the present system would not offer effective means of combating excessive fluctuations.

4. The Six were not able to accept all these British requests. Wishing to ensure that the British system would be adjusted in a way compatible with the principles and the time-table of the com-

mon agricultural policy, they informed the United Kingdom Delegation that:

a) The common agricultural policy must be applied in its entirety by the United Kingdom by the end of the transitional period;

b) The system of deficiency payments granted on the basis of a guaranteed price must be abolished at the very beginning of the transitional period in respect of all products for which common regulations existed. The Six stated, however, that they were aware of the British Government's pledges to Parliament on this issue and declared their readiness to consider appropriate measures within the limits of these pledges.

c) A system of degressive subsidies to consumers or—if these involved major difficulties—to producers would provide a solution to any difficulties, such as a sudden and excessive rise in consumer prices, which might result from the move from one system to the other.

On the basis of these principles it would have been possible to apply the common agricultural policy to Great Britain and still avoid any serious difficulties for the British economy.

On the other hand the Six considered that if they accepted the British request to maintain their guaranteed prices and deficiency payments, the British national system would continue alongside the system worked out by the other six Member States under the agricultural policy. This would have meant taking considerable liberties with this policy and would have led to a discrimination between Community producers that was incompatible with the Treaty of Rome. Such discrimination could well have developed into distortion of competition between British and other Community producers.

As regards the British request to prolong the transitional period, the Six pointed out that, given the structure of British agriculture, they did not see that adapting the British system would raise any particular difficulties justifying an extension of the transitional period. Moreover, the date of 31 December 1969 was based on

the Treaty itself, and any extension would have amounted to an alteration to the Treaty and would have prevented the common agricultural market from being set up within the prescribed time.

As regards the British requests concerning the various products, the Six raised the following difficulties:

a) *Wheat :* The Six emphasized that a downward adjustment of the lower limits of the target price bracket would make harmonization of prices more difficult and could affect the methods and, more especially, the tempo of the alignment. The British proposals would also result in there being no rise in the producer price for wheat upon accession, and the harmonization of British prices with Community prices would start, at the earliest, 18 months after the United Kingdom's accession.

The British proposals would amount to not establishing the full rate of the levy for at least 18 months, and this would constitute an exception in the application of the most important instrument of the common agricultural policy.

The Six also said that the rise in producer prices resulting from the application of the regulation on cereals would not be such that it could not be effected in one step by the United Kingdom. This rise would also re-establish a more normal relationship between the price of wheat and the price of the other cereals.

On the other hand, the Six recognized the need for arrangements to be made to meet the rise in consumer prices. They were of the opinion, however, that a solution could be found under Article 24 (3) of the regulation on cereals, which allows recourse to consumer subsidies.

b) *Barley :* The result of the British request would have been that processed products could be produced in the United Kingdom on the basis of low-cost supplies, which would lead to disparity in competitive conditions within the enlarged Community.

The British request would further imply an exception in the application of the full rate of the levy for three or four years.

The Six were of the opinion that the repercussions of the rise in the price of barley on the cost of processed products should be dealt with in the context of arrangements to be made for each of these products.

c) *Oats :* The Six took note of the British request.

d) *Pigmeat :* It was pointed out by the Six that the British proposals allowed for increasing the market price to the level of the producer price only at a fairly distant date.

One consequence of this would have been that the exporting countries of the Six would have to continue, for a fairly long period after the accession of the United Kingdom, to make refunds in order to be able to export to this market.

However, in order to avoid a sudden excessive rise in the market price which would follow from the aforesaid application of the regulations on cereals and pigmeat, the Six had pointed out that—although this was not laid down in the regulation on pigmeat—this rise could be eased by the United Kingdom granting a subsidy of a fixed and degressive amount on its market (for example at the slaughterhouse stage). However, the same subsidy would have to be granted on all imported products after clearance by the customs authorities, because it did indeed seem difficult to ask the other six Governments to subsidize their exports to the United Kingdom while the latter was keeping market prices artificially low.

With reference to the British request to strengthen the machinery for market intervention, the Six said that the regulation on pigmeat contained all the machinery needed, and they drew attention to the risks of over-production involved in any further machinery. It seemed to them that the present wording of Article 9 (2) was wisely chosen, in that it postponed such a decision to a later stage, that is to say to a time when it would be possible to judge better, in the light of further knowledge and experience, what should be laid down for the single market stage.

e) *Eggs :* The Six pointed out that the British proposals did not entail the final elimination of deficiency payments until some years after the end of the transitional period.

As the changeover from a guaranteed price to a price exposed to the fluctuations of the market had to be made in any case, it seemed that it ought to occur at the outset of the transitional period.

In addition, the maintenance of deficiency payments for another ten years entailed a risk of over-production of eggs; the effect of this would be felt by the producers of the Six, while British producers continued to benefit from a guaranteed price.

The Six remarked, however, that to ease possible difficulties in making the adjustment to the new prices, they might accept the granting by the United Kingdom of subsidies of a fixed and degressive amount, although this was not provided for in the regulation on eggs. As regards the British request for an amendment to the regulation, the Six expressed fears that the intervention machinery proposed might give rise to a general over-production in this particularly sensitive sector.

5. The United Kingdom had accepted without qualification the Regulation on the Progressive Establishment of a Common Organization of the Market in Poultry Meat, but had pointed to the serious difficulties which poultry producers in the United Kingdom would face if the Six's suggestions on barley, which involved a sudden rise in the market price, were adopted.

The Six did not share the United Kingdom Delegation's opinion that serious difficulties would arise for United Kingdom poultry producers.

6. The discussions on the integration of British agriculture were bound to be long and difficult, for they included extremely technical matters together with more general economic and political aspects which were closely interwoven. Moreover, although the problem had been touched upon several times early in the negotiations and more particularly in the summer of 1962, it must be

recognized that detailed discussions on the subject did not begin until very late, at the end of that same year. During the first quarter of 1962, there was scarcely any change in the initial British positions, whilst the Six themselves maintained their objections to those positions. The Conference as a whole then agreed, at the end of December, that it was necessary to look more deeply into the whole matter.

Under the chairmanschip of M. Mansholt, Vice-President of the Commission, a fact-finding committee set up at the fourteenth Ministerial Meeting of the Conference considered what effects would in fact be produced by implementing the Community's proposals and the proposals of the United Kingdom Delegation.

During the discussions at the Conference after this committee had presented its report the Community pointed out once again that certain compromises would probably be easier to reach if the United Kingdom could accept 31 December 1969 as the date for the end of the transitional period. In reply Mr. Heath, speaking of the products dealt with in the committee's report (and so excluding horticulture), said that if it were established that suitable arrangements could be found for the transitional period, it might then be possible for the United Kingdom to accept the date of 31 December 1969 as the end of the transitional period for these products.

As these various statements were made only a very short time before the negotiations were suspended, discussions on the arrangements in question were not pursued.

7. *a)* There is no doubt that from the Community point of view the best arrangements for the transitional period are those which the Six had proposed and developed in detail during the negotiations. By providing a degree of gradualness in the developments that would follow adjustment of the British machinery, they would meet the United Kingdom's real economic problems; at the same time they would supply the most efficient means of bringing about a genuine integration of the agricultural economies of all member countries and of arriving at a common market by the agreed date.

b) i) It is true that, in the light of certain anxieties expressed on the British side, it would have been possible to consider granting the United Kingdom exceptional treatment for a few years, especially for cereals. The purpose of such treatment would have been to make it easier to adjust British market and producer prices by dissociating Great Britain from the general system; but it would have raised a delicate problem as regards decisions on aligning target prices within the Community, which would have had to be taken during the same period. If this path were chosen, it would have been necessary to decide immediately on the price alignments which would have had to be made in the Community during the years when Great Britain was enjoying special treatment.

ii) The British request concerning oats represents a change in the regulation on cereals, but does not seem unreasonable when it is remembered that Great Britain is a major producer of this grain.

c) The United Kingdom Delegation had asked for special arrangements both for cereals and for processed foodstuffs (pigmeat and eggs). This double request seems to have been debatable. In particular, any arrangement for cereals which was satisfactory to Great Britain and resulted in spreading the rise in prices would have done away with all Great Britain's difficulties over poultry and would have considerably lessened the difficulties over pigmeat and eggs. However, the British request to retain guaranteed prices and deficiency payments could not be accepted, on grounds which were developed at length by the Six during the negotiations. The British system could have been replaced by fixed subsidies which would have had to be tapered off and which could have been granted at either the producer or the consumer stage, according to the nature of the product.

d) As regards the British requests to tighten the provisions for action at the single market stage, it is probable that the enlarging of the Community by the accession of the United Kingdom and other countries would later have shown the advisability of reviewing various points in the present provisions.

8. The United Kingdom had accepted the principles underlying the regulation on fruit and vegetables and the aim of a common horticultural policy, but since successive British Governments had given an assurance that horticulture would continue to receive support similar to that granted to agriculture, the United Kingdom Delegation considered that certain changes were necessary and that provision must be made for adjustment.

To meet the problems raised by accession to the Community, the United Kingdom:

a) Asked for a standstill period of five years before the first tariff reductions for sensitive horticultural products. After this period it was prepared to reduce duties over a period ending on 1 January 1973;

b) Wished to provide financial assistance for horticulturalists to make the change-over easier, and wanted therefore a guarantee that it would be free to grant such aids;

c) Requested a period of respite before applying the measures required under the regulations on grading, since some time would be needed to train staff to operate these arrangements;

d) Considered it necessary to provide, under the regulation on fruit and vegetables, for machinery to stabilize the market and to prevent surpluses within the Community from leading to collapse of prices.

9. The Six considered that in general there was no justification for the exceptional measures which the United Kingdom Delegation requested for horticulture.

a) They noted that the situation of horticulture in the United Kingdom was not essentially different from that in the six countries, where the period of adaptation had really begun only when the relevant regulation came into force. They considered that with the elimination of controls at the frontiers the United Kingdom would be faced with the same problems as the other members

of the Community. As for the United Kingdom's internal difficulties over grading at home and the quality inspection of imports, they could be no greater than those which had faced most of the countries in the Community.

With regard to the questions relating to financial assistance to be granted to British growers, the Six referred to the facilities offered by the Treaty of Rome.

With regard to measures for stabilization of the market, the Six considered that Community measures could be applied if it should prove necessary to restore a degree of balance to the market. In this connection the Six drew attention to Article 3 (2) of the regulation on fruit and vegetables which lays down that the Council, acting on a proposal of the Commission, shall adopt the Community rules on the operating of the markets and on commercial transactions not later than 30 June 1964.

b) Horticultural problems were discussed for the last time at the tenth Ministerial Meeting on 24-27 July 1962.

At this meeting the Delegations maintained their respective positions.

10. Even when due weight is given to the British observations, it still seems that the United Kingdom could and should apply the regulation on the organization of the fruit and vegetables market immediately on accession. But one grave problem might arise: if the tariff dismantling phases were strictly enforced, Great Britain's acceptance in principle of the internal reductions already effected when it joined would at one stroke deprive British horticulture of approximately half the protection it had been enjoying. The United Kingdom could therefore be authorized to remove customs duties at a different tempo—to be fixed by common consent—which would enable the various tariff reductions to be made gradually. To ensure their gradual character these reductions should have started as soon as Great Britain joined the Community, since all tariff reductions were in any case to be completed by the expiry of the transitional period.

The British request concerning financial assistance to growers does not appear to be impracticable, and the Treaty of Rome contains provisions allowing for such aid, subject to certain conditions and restrictions which could have been considered in the light of the particular case (Arts. 92 and 93).

C. AGRICULTURAL REGULATIONS IN PREPARATION
(Dairy produce, beef, rice, sugar)

1. A procedure was first established for the exchange of information on the products under discussion in the EEC Council (dairy produce, beef and rice); this procedure included contacts between the United Kingdom Delegation and the Commission.

After learning the Commission's proposals for the common organization of markets in these sectors, the United Kingdom Delegation made several comments.

a) In connection with milk and dairy products, the main British requests were as follows:

i) That the Community system of protection be based not on the present abnormally low world prices, but on a price that would ensure a reasonable income to efficient and economic producers, such as New Zealand;

ii) That if safeguard clauses were applied in the form of quantitative restrictions, these should not affect the volume of Commonwealth exports to the British market;

iii) That the British market for fresh milk should be isolated and the sales price of this milk provisionally kept at a level considerably above that obtaining in the other Community countries.

The United Kingdom also asked for arrangements to keep the price of imported Cheddar cheese on the British market at a level corresponding to that at which home-produced cheese must be sold if British dairy farmers were to obtain the target price for milk.

Also, in view of the exceptional importance to the Commonwealth, particularly New Zealand, of the British market for this type of

cheese, the United Kingdom furthermore asked that this outlet should not be impaired by any arrangements concluded by the enlarged Community.

b) For beef and veal, the British Government asked to retain the deficiency payments system and requested a longer transitional period. In consideration of Commonwealth interests, it also asked that the provisions of the regulation which deals with import certificates be amended so that chilled and frozen beef would be treated alike.

c) For rice, the United Kingdom suggested certain adjustments to the Commission's proposals to allow for certain specific needs of the British market.

2. As well as commenting on the proposals already submitted to the Council, the British Government presented certain observations on the future common agricultural policy for sugar. It considered that one aspect of the policy should be restricting the area under beet, and also asked for measures to prevent imports disorganizing a Member State's market during the transitional period. The problem of the Commonwealth Sugar Agreement and British commitments under it was dealt with in another connection.

3. The Conference forwarded to the Council the British comments on the regulations still to be adopted.

a) On the question of subsequent procedure, the Six said that the United Kingdom Delegation's comments could still be examined during the negotiations if the regulations in question were adopted before these ended.

If a regulation were adopted between the signing and the ratification of the accession agreement, it could be studied by an interim committee; this method would provide Great Britain with a guarantee that no important decision would be taken without its knowledge.

Discussion of this procedure was still going on between the Six when the negotiations were suspended.

b) The fact remains that agreement between the Six on the regulations covering these products would have made it possible to reach agreement on the substance of these matters during the negotiations, and that from this angle speedier Council decisions would have been welcome. This would not have prevented the Council from taking account, before reaching a decision, of the British comments, which at times reflected certain problems already encountered by the Six.

CHAPTER IV

Financial regulation

1. Regulation No. 25 on the financing of the common agricultural policy is an integral part of the Council decisions of 14 January 1962. It provides not only for the establishment of an Agricultural Guidance and Guarantee Fund whose aims and financial resources it lays down, but also contains provisions on how the levies charged on imports of farm products from non-member countries shall be used. Thus, Article 2 (1) of the regulation, for instance, runs:

"Revenue from levies charged on imports from third countries shall accrue to the Community and shall be used to cover Community expenditure, so that the budget resources of the Community shall consist of this revenue, together with all other revenues allotted in accordance with the rules of the Treaty and the contributions made by Member States in accordance with Article 200 of the Treaty. The Council shall, in due course, set in motion the procedure laid down in Article 201 of the Treaty for the implementation of the above provisions."

As discussions on this regulation proceeded it became clear that views diverged among the Member States as well as between them and the United Kingdom Delegation on:

a) The present state of the procedure laid down in Article 201 (had certain stages of this procedure—the Commission's proposal, consultation of the European Parliament, Council decision—already been completed, or had they not?)

b) The extent of the matters of substance to be settled in due course in accordance with the procedure laid down in Article 2 of the Financial Regulation.

As regards point *b)* the Delegation of one Member State had declared on several occasions that when the levies were being transferred to the Community, a certain number of other important questions would have to be settled, in particular:

a) The question of the Community's other revenues expressly referred to in Article 2 of the regulation, and

b) The question of a fair allocation of the financial burden.

The Lord Privy Seal also stated on 22 February 1962 that the United Kingdom would have to ask that Community expenditure, including expenditure on agriculture, should be allocated fairly between the Member States. On 17 May 1962 the Head of the United Kingdom Delegation at Deputies' level, added to this statement by giving an interpretation of the Financial Regulation in a way which threw doubt on the conditions of its application. Later, the British Government reconsidered these statements and announced that it could accept the regulation as it stood; the interpretation of the regulation between the Six themselves had still not been defined.

In these circumstances it was to be expected that before the levies were actually transferred to the Community it would be necessary for the Member States to have "in due course" further discussions on the substance of these questions, at which they could examine not only the procedure for implementing the transfer of the levies to the Community but also the problems connected with the Community's other revenues and the fair allocation of the financial burden. The Delegation of another Community State considered that, precisely because of Great Britain's request concerning imports of temperate foodstuffs, the uncertainty arising from the divergent interpretations of the Financial Regulation could not be allowed to continue. This Delegation therefore insisted on immediate and complete implementation of the procedure laid down in Article 201, so that the decision on levies in Regulation No. 25 might become "final and irrevocable".

2. Up to January 1963 several attempts were made among the Six to find a strictly procedural answer. These proposals were all more or less variants of the two theoretically possible procedural solutions, i.e.:

a) Either to make the effective transfer of the levies to the Community subject to a decision on the related problems, particularly

the fair allocation of the financial burden, such a decision to be taken at a later date but before the end of the transitional period;

b) Or to guarantee forthwith that the levies be transferred to the Community under a legally binding assurance given on ratification of the British treaty of accession, while relying on a subsequent procedure to solve the related problems.

It was fairly clear that neither of these solutions had any great chance of success, i.e. of proving acceptable to all Delegations. In fact a synthesis of the two points of view was only possible if the question of substance could itself be settled during the accession negotiations. In this connection the Commission had examined the situation and set out a number of conditions which would have to be met by any proposal if it were to have a chance of being accepted. These conditions were:

a) The decision of 14 January 1962 on the transfer of the levies to the Community after the transitional period must not be called into question;

b) The procedure under Article 201 provided for in Regulation No. 25 must be completed at the same time as the accession of the United Kingdom was ratified, thus clearing up any uncertainty as to the effective transfer of levies to the Community;

c) The question of those other revenues of the Community expressly referred to in Article 2 of the regulation would have to be solved and a fair distribution of the burden secured;

d) The solution proposed must guarantee the neutrality of the levy system, i.e. there should be no encouragement to import from non-member countries rather than from Community countries;

e) The negotiations on Great Britain's accession should not be unduly retarded.

3. On the basis of these conditions the Commission worked out a solution which was transmitted to the six Member States on 19 December 1962. To facilitate the discussion the Commission submitted this working paper in the form of articles, at the same time pointing out that it was in no way a Commission proposal within the meaning of the Treaty. The next was as follows:

Article 1

After the expiry of the transitional period revenue arising from the application to imports from non-member countries of the duties in the common customs tariff and from agricultural levies shall accrue to the European Economic Community as revenue of its own.

Article 2

The revenue mentioned in Article 1 shall be used to finance the budget of the European Economic Community and the European Development Fund.

Article 3

The Commission shall each year carry out in respect of each Member State a comparison between the amount of the customs duties and levies charged on its territory and its share in Community expenditure borne by such Member States under the terms of Article 200 (1) of the Treaty.

Those Member States for which the comparison shows that they are levying more than they are contributing to expenditure shall pay a financial contribution equal to two-thirds of the difference noted.

Those Member States for which the comparison shows that they are contributing more than they are levying shall receive from the Community a payment equal to two-thirds of the difference noted.

Article 4

1. If, after completion of the operations laid down in Article 3 above, the Community's revenues are in excess of the expenditure provided for in Article 2, the surplus shall be distributed among the Member States in proportion to the share of the Community's own revenues raised in their respective territories.

2. If, after completion of the operations described in Article 3 above, the expenditure provided for in Article 2 exceeds the Community's revenues the deficit shall be covered by financial contributions from the Member States in conformity with Article 200 (1) of the Treaty.

Article 5

In due course, the Council acting by qualified majority on a proposal from the Commission and after consulting the Parliament, shall lay down the appropriate provisions on the collection and the management by the Community of the revenue referred to in Article 1 and raised by the Member States.

Article 6

To ensure smooth transition to the financial system of the final period the Member States shall, with effect from the third alignment of their tariff with the common customs tariff, pay a certain annual percentage of their customs revenue to the Community as a contribution to its budget.

The percentages and details of such payments shall be fixed by the Council in accordance with the procedure in Article 200 (3) of the Treaty at the same time as the Council establishes, by virtue of Article 7 (2) of Regulation No. 25, the rules concerning the revenues of the European Agricultural Guidance and Guarantee Fund.

Article 7

Without prejudice to the possibility of action at any time under Article 201 of the Treaty, the Commission shall submit to the Council, in due course and at latest by the end of the transitional period, proposals under the said Article on:

a) The pace at which the contributions and payments provided for in Article 3 will gradually be reduced until they end in 1975;

b) How any surpluses are to be appropriated;

c) Any other measures which appear opportune in the light of the development of the Community.

In making these proposals the Commission will take into account the need to ensure a fair distribution of the financial burdens on the different Member States.

4. The ensuing discussion between the Six revealed that several Delegations were still not convinced that it was impossible to find

a purely procedural answer. Several Delegations entertained grave doubts as to the justification and also the possibility of finding at this juncture a precise solution to a problem of substance which would only come up in the future—and even then under conditions difficult to appraise at the present time.

To this it could be replied that the system which the Commission had endeavoured to work out was specially conceived to be applicable irrespective of the subsequent importance of the various elements to be taken into consideration. In other words, that it was already possible to adopt certain proportions as a basis irrespective of the future amounts involved. The Commission's proposal was also founded on recognition of the fact that no procedural solution could give genuine guarantees to all the parties concerned, as these at present had conflicting preoccupations and conflicting aims. The Commission therefore still believes that the best way to have solved the problem would have been to try to settle the questions of substance.

CHAPTER V

Economic union

1. In his statement of 10 October 1961 Mr. Heath suggested studying how far the regulations, directives, decisions and recommendations adopted since the Treaty came into force could be applied to the United Kingdom as they stood. After quoting as examples social security, monopolies and restrictive practices, the right of establishment, services and capital movements, he proposed that discussions between experts should be begun so that the British Government might become better acquainted with Community law in these fields.

Following this proposal, a procedure was established to enable the United Kingdom Delegation to contact the Commission and obtain the desired information.

Information was sought on the following subjects: the free movement of goods, commercial policy, transport, economic policy (including anti-cyclical policy and the articles of the Treaty which deal with the balance of payments), the right of establishment, services, free movement of capital, rules governing competition (including the approximation of legislation), equal pay for men and women, free movement of labour, and social security.

2. At the close of these discussions, the United Kingdom Delegation announced that they could accept the provisions of the Treaty and the regulations, directives, decisions and recommendations in force, subject to the following reservations:

a) A more detailed study of the rules of competition applicable to agriculture;

b) The special situation of Northern Ireland as regards the free movement of labour;

c) The time-table for establishing equal pay for men and women in the United Kingdom.

3. The United Kingdom Delegation also expressed the wish that a working party should study certain administrative difficulties which might arise because of the special features of the British social security system.

These difficulties related to the problem of repayment of medical costs (waiving of rights to reimbursement, lump-sum refunds and individual refunds upon presentation of bills), the fixing of the lump sum per unit, calculation of the number of units involved, the problem of tourists (the United Kingdom has no entry check which would make it possible to single out those tourists who are employed persons), procedures for settlements between institutions (by payment or by waiver), entitlement documents and the preparation of accounts for mutual settlement of medical costs between the institutions of different countries.

All the delegations expressed satisfaction at the Working Party's discussions. Indeed, talks are now going on among the Six independently of the negotiations with the United Kingdom, with the aim of simplifying wherever possible the procedures under Regulations No. 3 and No. 4, which deal with social security for migrant workers. Thanks to the discussions with the United Kingdom Delegation, it has been possible to take the situation in the United Kingdom into account when working on this simplification. It will be noted that the work concerned administrative questions only. Although in the six countries social charges are very largely financed by employers' and workers' contributions proportionate to earnings, in Great Britain the main burden is borne by the taxpayer. This difference in financing could have led to distortions of competition in the Common Market. The problem was raised in connection with the negotiations with ECSC.

4. In the absence of further details from the United Kingdom Delegation it is difficult to estimate the scope of its reservations concerning Northern Ireland, equal pay for men and women, and the application of the rules of competition to agriculture. Subject to correction, the Commission does not, however, think

that these reservations would have given rise to very serious difficulties.

5. It may be considered surprising that the Conference paid relatively little attention to the problems of the economic union, at least in their general aspects. This is mainly due to the fact that the United Kingdom Delegation was intent above all on defining the points on which it had to ask for a modification or an exception to the Community law in force. In the field of economic union, however, most of the common policies have still to be established. Great Britain could therefore confine its reservations to the questions mentioned above.

On the Community side, it was difficult to go any further as the Six had not reached full agreement on the future development of the various common policies (transport, tax harmonization, approximation of laws, fiscal policy, monetary policy, economic policy, regional policy, commercial policy, etc.). At the very beginning of the negotiations, however, the spokesman for the Six and the President of the Commission had stressed the importance which the Community attached to the Treaty provisions on economic union, since this union is one of the conditions for the success of the customs union itself. In his reply, Mr. Heath acknowledged the importance of the articles of the Treaty dealing with economic union, and the importance of harmonizing national policies as foreshadowed in these articles.

CHAPTER VI

EFTA and the other European countries concerned in the negotiations

1. The problem of relations with EFTA had been mentioned by the British Prime Minister in his statement to the House of Commons on 31 July 1961 as one of the major problems which would decide the outcome of the negotiations which the British Government proposed to open with a view to membership of the European Economic Community. In his speech to the Commons on 2 August 1961 Mr. Macmillan, introducing the motion referred to at the beginning of this report, again stressed that an arrangement which would satisfy the special interests of the EFTA countries was one condition for the accession of Britain itself. This position was reiterated and amplified in the statement made by the Lord Privy Seal in Paris on 10 October 1961, which on this point as on others formed the practical basis of the negotiations. At this meeting Mr. Heath drew attention to the Stockholm Convention and the subsequent commitments entered into by Great Britain, in particular at the EFTA Council meeting in June and July 1961 (1). These decisions left each member of EFTA free to establish direct relations with the Community, while at the same time keeping EFTA in force "until satisfactory arrangements have been worked out... to meet the various legitimate interests of all members of EFTA, and thus enable them all to participate from the same date in an integrated European market." Mr. Heath added: "If satisfactory arrangements could be made on these lines the wider trading area thus created would include, not only the members of the enlarged Community, but also the remaining members of EFTA, and, of course, Greece."

In addition to the members of EFTA other than Great Britain (Denmark, Norway, Sweden, Switzerland, Austria, Portugal) the Lord Privy Seal mentioned the cases of two other countries for

(1) Paras. 58, 59 and 60 of the statement of 10 October 1961.

which arrangements would have to be made: Finland and Ireland (1). As regards Finland, an associate of EFTA, Mr. Heath pointed to the need to maintain that country's commercial links with Western Europe. In the case of the Irish Republic, with which Great Britain has special trading arrangements, Mr. Heath recalled Ireland's application to become a member of the Community, and said that if the application succeeded, these special arrangements would be subsumed in the wider arrangements of the enlarged Community.

2. It so happened that the problems mentioned by Mr. Heath in connection with EFTA were not dealt with in the first phases of the negotiations, since there seems to have been fairly general agreement to take first the most important of the strictly British problems (Commonwealth and agriculture). Apart from considerations of a practical nature, this postponement of the examination of certain problems could be justified by the fact that the EFTA applications appeared to be consequences of the British application itself, or at any rate closely bound up with the success of the latter. Nevertheless, the procedure with the various EFTA countries was set in motion concurrently with the United Kingdom negotiations.

In conformity with the aforementioned decision of the EFTA Council, the signatories of the Stockholm Convention approached the Community in turn, stating in broad outline their position in relation both to the political aspects of the Treaty of Rome and to its economic or commercial provisions.

i) On 10 August 1961 Denmark announced that it wished to negotiate with the European Economic Community with a view to accession under Article 237 of the Treaty of Rome.

On 27 September 1961 the EEC Council of Ministers accepted this application.

A first hearing of the Danish Delegation at ministerial level took place on 26 October 1961. This was followed by six meetings

(1) Ibid., paras. 61 and 62.

at ministerial level and five meetings of officials, with various contacts at other levels.

ii) Norway announced on 2 May 1962 that it wished to open negotiations for membership of the Community under Article 237 of the Treaty of Rome. A first hearing took place on 4 July 1962 at ministerial level; the Norwegian Minister of Foreign Affairs referred to the problems which might arise for Norway in the event of accession. At this meeting the EEC Council of Ministers acceded to the Norwegian Government's request for the opening of negotiations. This was followed by a meeting at ministerial level in Brussels on 12 November 1962.

In addition, the Republic of Ireland also declared, in a letter of 31 July 1961, that it wished to enter into negotiations with the Community with a view to accession under Article 237 of the Treaty of Rome.

On 18 January 1962 a first meeting was held with the representatives of the Irish Government; at this meeting Mr. Lemass, Prime Minister of Ireland, referred to the problems which accession might pose for his country. A meeting with Irish officials was held in Brussels on 11 May 1962.

On 23 October 1962 the EEC Council of Ministers accepted the Irish application for negotiations with a view to accession.

iii) On 12 December 1961 Austria announced its desire to open negotiations with the Community with a view to a purely economic agreement under Article 238 of the Treaty of Rome.

On 28 May 1962 the EEC Council of Ministers accepted this request.

A first hearing of the Austrian Delegation at ministerial level took place on 28 July 1962.

iv) On 12 December 1961 Sweden announced that it wished to open negotiations with the Community for an economic association under Article 238 of the Treaty of Rome.

On 28 May 1962 the EEC Council of Ministers accepted this request.

A first hearing of the Swedish Delegation at ministerial level took place on 28 July 1962.

v) On 15 December 1961 Switzerland announced that it wished to open negotiations with the Community with a view to seeking an appropriate form of participation in the Common Market under Article 238 of the Treaty of Rome.

On 28 May 1962 the EEC Council of Ministers accepted this request.

A first hearing of the Swiss Delegation took place in Brussels on 24 September 1962.

vi) On 18 May 1962 Portugal announced that it wished to open negotiations with the Community with a view to establishing the terms for future collaboration with the Community under Article 238 of the Treaty of Rome.

On 19 December 1962 the EEC Council of Ministers accepted this request.

A first hearing of the Portuguese Delegation was fixed for 11 February 1963 in Brussels.

vii) On 29 January 1963 Finland had not yet announced its position.

In the case of Denmark, the conversations were thus well under way by 29 January 1963.

With Norway and Ireland on the other hand the negotiations proper had not yet got under way, but contacts had been made and the importance of certain special problems had been assessed.

As regards the three neutral countries, the negotiations had not advanced beyond an initial statement of position by the countries concerned. For Portugal, a date had been fixed for a first hearing but this had not taken place. As has been stated, Finland had not yet made its position known.

3. There were two facets to the EFTA problem: first, the establishment of long-term relations under Articles 237 or 238 between

Stockholm Convention countries and the Community, which was the object of the approaches referred to above, and secondly the consequences for Great Britain itself of its membership of EFTA or, in other words, the repercussions on the negotiations with Great Britain of that country's preferential tariff relationships with its partners under the Stockholm Convention.

In fact, it was from this latter angle that the problem was first posed, in connection with the interpretation of a general provision of the Treaty of Rome—Article 234—and with the application by the United Kingdom of the common customs tariff.

In May 1962, during the negotiations with Great Britain, the spokesman of the Six found it necessary to recall certain points already made in the preliminary replies from the representatives of the Community to Mr. Heath's statement of 10 October. In these it was made clear that the common customs tariff had to be implemented by the United Kingdom in its trade with all non-member countries. The Leader of the United Kingdom Delegation answered at the time that the Treaty of Rome included provisions relating to conventions concluded prior to the entry into force of the Treaty. The allusion was to Article 234, but Mr. Heath did not explain the exact meaning of his remark nor to which special cases he thought it applicable.

It seemed that this uncertainty needed to be cleared up. After going into the question at some length, the Six informed the United Kingdom Delegation that they did not consider that Article 234 of the Treaty, which was couched in very general terms and essentially concerned non-preferential commitments such as those under GATT, could be invoked to postpone to a date after British accession the settlement of such an important problem as that of Great Britain's preferential relations with EFTA. Such a solution would moreover involve considerable disadvantages both from the legal and technical points of view. It was therefore in the actual negotiations for Great Britain's accession that solutions would have to be found for the future of the British preferential tariff applicable to EFTA. At a ministerial meeting in Decem-

ber 1962, the Leader of the British Delegation fully accepted this argument and confirmed that Great Britain did not intend to invoke Article 234 in order to settle the problem of its relations with EFTA; this meant that the common tariff would be applied to all non-member countries, save in so far as special arrangements might be negotiated before Britain's accession.

4. Nevertheless, the EFTA problem could not thereby be considered as settled.

If, on the one hand, Great Britain did not intend to withdraw from EFTA (Article 42 of the Stockholm Convention, which provides for withdrawal, fixes one year's notice) and if, on the other hand, Great Britain was not concerned at the present stage about the future of its preferential tariff for trade with its EFTA partners, this was because it still assumed an overall solution which would "meet the various legitimate interests of all members of EFTA, and thus enable them all to participate from the same date in an integrated European market". Obviously on this assumption—and the British position was reaffirmed during the ministerial meetings of December 1962—the points raised by the Six were irrelevant.

But we must consider the consequences of such a position as regards the British negotiations themselves:

a) As regards the timing, Britain's accession was put off to a more uncertain date, which depended on the course of the other negotiations for accession or association;

b) As regards the substance of the matter, Britain's accession itself became contingent upon the success of these other negotiations.

5. With regard to the three candidates for membership it was doubtless still too soon to prejudge the solutions on points of substance which would be adopted, in view of the problems or of the specific reservations which had been expressed. But the negotiations, agreed to in principle, at least had one firm basis: since it was a question of accession, this basis could only be the

Treaty of Rome, i.e. a complex of provisions that were known and had an internal balance which was already definite.

In any case it could be considered then that, whatever the solution adopted on the point of substance, it should at least be possible for the uncertainty to be dispelled fairly soon.

For the other applications from EFTA Member States, on the other hand, it was much more difficult to establish assumptions on either the timing or the nature of the solutions to be adopted.

Although the decision to negotiate had been taken, the content of these negotiations remained much more uncertain than in the case of the three countries applying for membership. What constitutes association is in fact not defined by the Treaty of Rome itself, and the scope or the balance of an agreement on association can therefore be conceived in very different ways. The uncertainty on these points had already been mentioned on the Community side in the preliminary replies to Mr. Heath's statement of 10 October.

Furthermore, participation by all these countries in an integrated common market as proposed in EFTA's London communiqué, immediately posed delicate questions of economic harmonization and integration, as each country had its own problems or reservations. From the Community point of view, it has always been maintained that the customs union was not to be thought of as an arrangement in isolation; it only made sense and had practical prospects of success if it were embedded in an economic union. The formula of association, since it meant long-term participation in an integrated European market, could also raise an institutional problem which called for thorough examination to ensure a balance of commitments among the parties concerned and to give the wider common market a chance of functioning. The case of Finland, which on association with EFTA had concluded with the USSR an agreement on non-discrimination in tariffs, might well add a delicate legal problem. In a more general way, the distinction drawn by certain States between the economic or commercial

aspects of the Treaty of Rome and its political implications, a distinction which had prompted them to proceed by way of Article 238, required of the Community an answer on the question of principle, which itself could not be divorced from one particular concept of association (1). Finally, the extension of the common market to these various countries could not fail to raise, before long, the question of trade relations with the other European countries still outside both EEC and EFTA, in particular Spain (2).

6. One solution suggested by the Six was to work out a provisional system which, without prejudging solutions on matters of substance, would have made it possible to conclude the talks which had reached the most advanced stage, in particular with those countries applying for membership.

Such a system could broadly have made use of the possibilities offered by the forthcoming tariff negotiations proposed by President Kennedy. The arrangements for dealing with the special position enjoyed by the countries in question on the markets of the United Kingdom or of the other States seeking membership, in other words the arrangements governing the gradual application of the common tariff, could have been modelled on the transitional arrangements already adopted in the negotiations with the United Kingdom.

7. Another problem of rather different character arose regarding the relations of Greece with Great Britain. Under Article 64 (3) of the Association Agreement consultations on the negotiations with the United Kingdom were to take place with the Greek Delegation. The same article provided that accession of a new member would confer no rights and impose no obligations on Greece until a protocol had been concluded with the Greek Government.

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(1) It should be remembered that unlike Article 237 (membership), Article 238 (association) is not limited to European countries.

(2) Application from Spain dated 6 February 1962 for association with the Community with a view to complete integration at a later date.

Arrangements had been made for these consultations to take place as the negotiations with the United Kingdom progressed, but the substance of the protocol on the rights and obligations arising between the new member and Greece had not yet been discussed. This question would have had to be settled by the date of Great Britain's accession, as Greece is a member of the customs union of the Common Market.

CHAPTER VII

Legal, financial and institutional questions

A. LEGAL QUESTIONS

Certain legal problems were to be settled during the negotiations; these were of two orders:

1. The adjustment needed in the Treaty and in the acts of the Community by reason of the United Kingdoms's accession;

2. The rules needed to ensure the entry into force, in respect of the United Kingdom, of Community law adapted in this way.

Of the adjustments required, only the modification of the financial and institutional provisions of the Treaty is of any real political interest. This is discussed below. The other adjustments to the Treaty and to the acts of the Community were largely a question of adding references to the new Member State in certain texts, or of setting or modifying certain dates or time-limits. These were mostly matters of form presenting no difficulty, and up to the time when the negotiations were suspended they had not been discussed.

Making Community law applicable to the United Kingdom would have required certain rules and procedures, which would have been embodied in the texts to be adopted by the Conference.

Under the second paragraph of Article 237, the conditions of admission and the adjustments to the Treaty were to be agreed between the Member States and the United Kingdom, such agreement to be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements. The effect of such ratification would have been that Community law would have become enforceable in the United Kingdom under the conditions laid down by the Treaty. The United Kingdom Delegation raised no objections to this principle. However, it might have been thought advisable to ensure, in subsequent con-

versations, that the measures contemplated for this purpose by the British Government really would give Community law the same force in the United Kingdom as in the Member States.

The Conference did not reach the point of considering what would be the most suitable form for the agreement and the appropriate procedure for its ratification. At the sixteenth Ministerial Meeting it had, however, taken up this question and had instructed a Working Party of Secretariat and Commission officials, convened at the instance of the Chairman, to examine together with officials of the United Kingdom Delegation the form to be given to the various arrangements concluded or to be concluded by the Conference. A paper on this subject was presented by the Chairman to the Conference at its seventeenth ministerial meeting on 28 January 1963. This paper proposed that before any texts were drafted a general plan should be adopted concerning the form each would take (convention or agreement, protocols, declarations).

Certain measures preparatory to the entry into force of Community law in the United Kingdom would also have been necessary. Further to an agreement reached at the Conference, the Commission and the United Kingdom Delegation had already begun work on an English version of the Treaty for submission to the Conference. The Conference had not yet considered the question of the translation and emendation of the acts of the Community.

Nor had it examined the question whether a special procedure should be laid down for the new Member State to have some say in the drafting of Community acts in the interval between signature of the agreement and actual accession.

The Conference had not discussed the legal procedures which would be required so that the United Kingdom's accession to Euratom and ECSC could be timed to coincide with its accession to the Economic Community. Nothing had been done with regard to the legal procedures that would be needed if other States, in particular the members of EFTA, were to join or associate themselves with the Community at the same time as the United King-

dom; here, however, the legal problems would have been no different in nature from those mentioned above.

B. FINANCIAL QUESTIONS

The accession of a new member to the Community obviously raises the question of its contribution to the Community's budget and therefore of a new apportionment of the financial burden between all the Member States. This is the kind of adjustment to which the Treaty of Rome itself refers in Article 237.

1. The problem is here considered only in its bearing on the negotiations with the United Kingdom.

The United Kingdom Delegation had given some general indication on this subject, suggesting that it should contribute the same amount as France, Germany and Italy to the Community budget [Article 200 (1) of the Treaty], and the same amount as France and Germany to the Social Fund [Article 200 (2)]. These suggestions were favourably received.

The question of the British contribution to the European Investment Bank had not been raised, though it could probably have been settled on similar lines without any great difficulty. On the other hand the question of the British contribution to the Overseas Development Fund had as stated earlier been left open, and here some rather delicate problems of balance would have had to be solved. It should also be recalled that the financial regulation adopted on 14 January 1962 in connection with the common agricultural policy was another important question still outstanding.

2. The various questions concerning British contributions were to have been re-examined in the light of the outcome of the other negotiations in hand, so that the whole question of apportioning the financial burden could be finally settled in the light of any other decisions on the accession or association of other European countries.

C. INSTITUTIONAL QUESTIONS

This was another field in which an enlargement of the Community would of necessity involve adjustments to the Treaty of Rome.

1. As in the case of financial contributions, the problem can be considered first of all solely with reference to the negotiations with the United Kingdom.

The United Kingdom had made various suggestions on this subject which had met with fairly general assent on the part of the Six. The main questions were the weighting of the United Kingdom vote, which was to have been the same as that applying to other member countries of comparable size, and the maintenance of the arrangement established in Article 148 of the Treaty of Rome whereby a qualified majority consists of two thirds of the votes. The question of British participation in the various Community institutions had also been raised, and there was no reason to believe that Treaty rules or current practices would have raised difficulties in this matter.

Certain points of procedure had yet to be settled, in particular with regard to the second case referred to in Article 148 (2) and the application of the simple majority rule laid down in Article 148 (1).

2. The problem, however, could not be dealt with entirely on the assumption that only the United Kingdom would be joining. The possibility of the accession of other States, which might, for example, have increased the Community membership to ten, called for a re-consideration of the problem as a whole. This was necessary firstly in order to harmonize the various solutions so that the final general arrangement should be balanced and coherent, and secondly because certain special problems connected with the working of the Community and the composition of its institutions then took on a somewhat different aspect (weightings for all the Member States, definition of qualified majority for decisions on a proposal of the Commission, definition of qualified majority for other decisions, simple majority, unanimity, composi-

tion of the EEC and Euratom Commissions and of the ECSC High Authority).

No delicate problems were expected to arise in connection with the Court of Justice, the European Parliament, the Economic and Social Committee and various advisory bodies of the Community.

These points had been raised in preliminary conversations within the Community but had not yet come up in the negotiations proper; they were being held over until the complex of negotiations with the various countries concerned had reached a sufficiently advanced stage.

III. FINAL OBSERVATIONS

One feature of the negotiations with the United Kingdom which stands out when an endeavour is made to draw up an impartial review of their results is their remarkable complexity.

The number of problems raised, the novelty of some of them (Commonwealth, British agriculture, EFTA) and the need to reconcile two sets of commitments as vast as those of the United Kingdom and those of the Treaty of Rome obviously posed extremely delicate problems for both the United Kingdom and the Community. It is of no small significance that the negotiations in fact bore mainly on the most precise stipulations of the Treaty or those establishing automatic commitments, namely the customs union in its various aspects, and the first tangible manifestations of a common policy in the sphere in which the Community had so far taken definite measures, i.e. agriculture, together with its repercussions.

It may therefore not be inappropriate to conclude this report with an attempt at certain more general assessments.

The method adopted in the negotiations was to deal one after the other with the points which had been raised by the United Kingdom Delegation. Where this method has been used in this report, it may at times have obscured the relative significance of the problems raised, the particular aspect some of these problems had assumed by the time the negotiations were suspended, and the links or inter-relationships that often existed between them.

Moreover, all the agreements reached were approved subject to the reservation that they were provisional and would, of course, have to be confirmed in the final general agreement.

1. A usefull starting point would be to establish the relative importance of the problems considered. The negotiations tended to place on the same level questions of widely varying impact.

A review of the negotiations should offer a more discerning appraisal.

Many points left in abeyance may be classified as of minor consequence. In the tariff field in particular, the tactical manoeuvring inseparable from negotiations had certainly delayed in many cases the settlement of secondary problems for which there was no reason to believe that a solution could not be found. Broadly speaking it may be said that the normal provisions of the Treaty and the decision-making powers of Community institutions could certainly have been accepted as providing the means of reaching a reasonable solution of many points referred to in this report which stem from minor or quite special economic problems.

On the other hand, it is important not to minimize certain questions which were still unanswered (apart from the problem of relations with the EFTA countries, the terms of which were rather special). With regard to temperate foodstuffs from the Commonwealth, although a solution had been put forward for cereals, its extension to certain other products might still have raised difficulties, even though the broad lines were already laid down.

Again, even though some measure of agreement had been reached as to the final stage regarding British agriculture, it would be a mistake to underestimate the importance for the Community of effective transitional arrangements ensuring the progressive integration of the economies of the Member States and the final establishment of a single market.

The Six themselves were still not agreed on the interpretation of the financial regulation, which can be looked upon as a very important element in the system for agriculture.

2. In this context, it is not uninteresting to note that what was needed for a solution was in some cases mainly a move from the British Government, but that there were also cases in which the issue turned upon proposals to be drawn up by the Six themselves.

To take the example of zero duties, the United Kingdom Delegation had during the last meetings put forward a compromise

proposal for one important product. But the negotiations had never officially touched on certain other products, which were among the most important, because the Six had not yet been able to reach a common standpoint on them which could accommodate the diverging interests of the Member States or take into account the differing importance they attributed to given cases. Here was a problem of considerable economic interest.

Although there was still a chance that British proposals for agriculture would be forthcoming which would have due regard for the criticisms or misgivings expressed by the Six, an overall view was still lacking because the Community had reached no decision on certain important products (dairy produce, beef, sugar and rice).

Similarly, with regard to the financial regulation, the negotiations with Great Britain and particularly the views expressed at the outset on the British side had re-opened among the Six themselves difficulties of interpretation which they had not yet succeeded in overcoming when the negotiations were suspended.

3. This brings us to reflect in more general terms upon the real difficulties in the negotiations. The question was not only one of reconciling British systems and commitments with the letter of the Treaty of Rome: it was rather one of reconciling them with a Community in the full surge of development. The British application for membership involved an obligation to accept not only the Treaty but the substantial advances made since the Treaty was signed. It was on these advances that discussion was sometimes most difficult. But the fact that in certain fields the content of the Treaty was still in a preliminary stage, and that, broadly speaking, the implementation of its various aspects was in an intermediary phase, may also be considered as having made matters more difficult for the negotiators. The problem was one of reconciling with Community arrangements the action taken to adjust the British system whilst paying due heed both to Great Britain's vital interests and to a Community system which itself lay largely in the future.

The Commission endeavoured throughout to work for a solution of Great Britain's specific problems by taking a long view and making use of the time factor. In many cases the right solutions could only be solutions which anticipated the future progress of the Community, for example in procedural matters, and which had at the same time the effect of leading the enlarged Community, probably sooner than originally intended, to start working out common policies.

The negotiations with the United Kingdom, because they brought these problems to the fore and in some cases considerably increased their scale, compelled the Community, then, to come to grips with them sooner than it otherwise would have done. This process brought with it greater awareness of the responsibilities an enlarged Community would bear in the world. Because of the United Kingdom's almost world-wide responsibilities, the questions raised by the United Kingdom Delegation also made it vital for the Community to define without delay the main policy lines of such a large and powerfull Common Market with regard to matters which, once Britain was a member, would have had a direct and crucial impact on the overall balance of the free world.