

ECLA/POS 70/8

Distribution: Restricted

Date: 15 June 1970

ECONOMIC COMMISSION FOR LATIN AMERICA
Office for the Caribbean

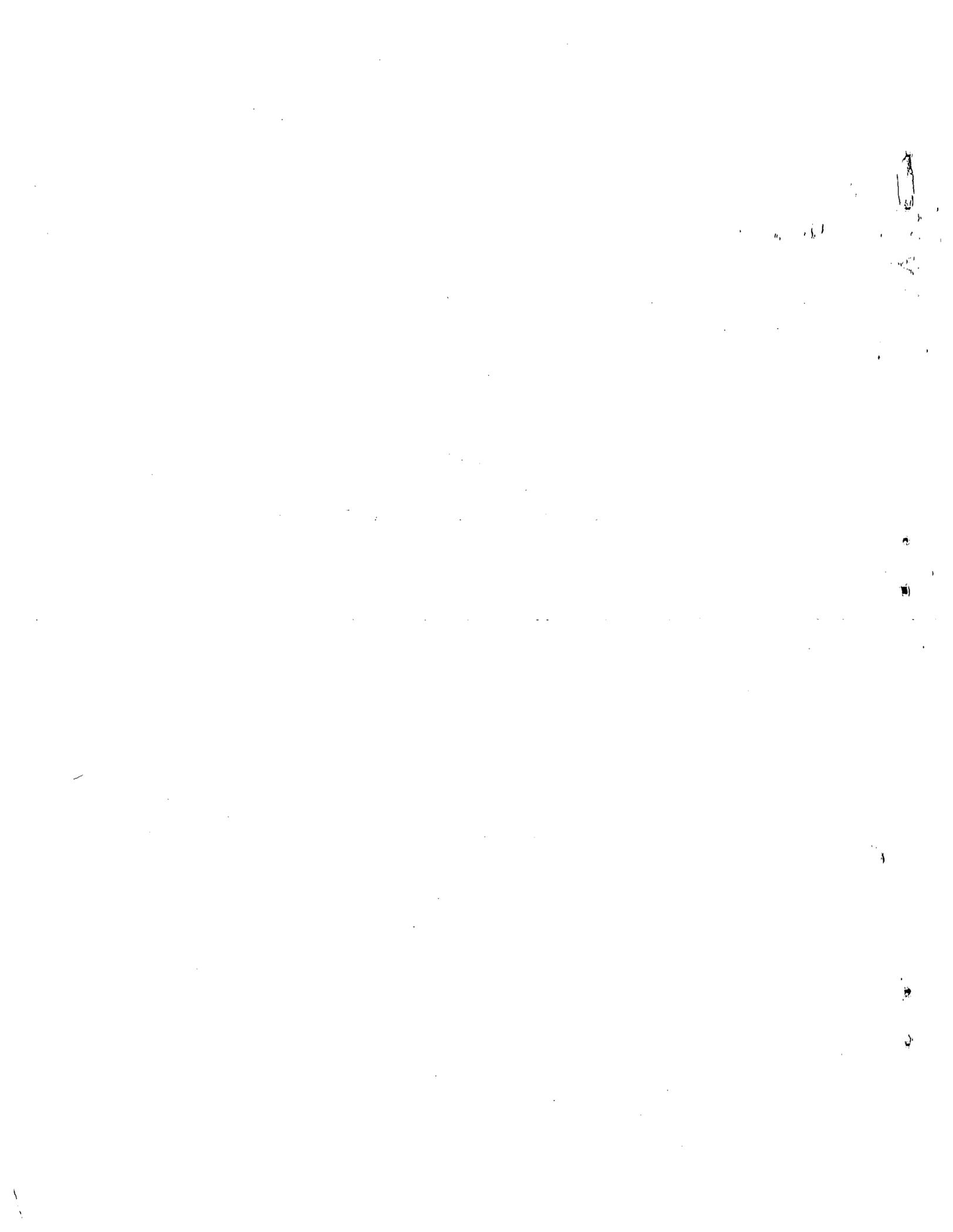
CONSIDERATIONS
concerning the
INTRODUCTION OF THE ECCM TARIFF



VOLUME I
GENERAL PART

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The term ECCM Tariff is used for the full title "Common External Tariff for the East Caribbean Common Market".



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General Part

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INTRODUCTION

Background Information

1. Free Trade Areas and Customs Unions have in common that the Member Countries agree to remove amongst themselves all trade barriers and thus create a common market. The difference between Free Trade Areas and Customs Unions consists in the fact that in the case of free trade areas the Member Countries maintain their individual customs tariffs while in the case of Customs Unions they introduce a Common External Tariff.

2. The idea of having Free Trade Areas was initiated in 1948 by GATT mainly with the intention of facilitating the formation of bigger economic areas since it was felt that very often the necessity of agreeing on a Common External Tariff could prevent the creation of a common market.

3. Economically there is, however, a considerable difference between a free trade area and a customs union. The difference lies in the fact that in the case of a free trade area the unequal tariff levels existing in the various Member Countries inevitably lead to a difference of the price structure in these countries - a fact which necessarily affects adversely the useful development of an open market. A Common External Tariff on the other hand ensures a fully harmonious growth of the various economies, a growth which can be considerably assisted by an appropriate Customs Tariff.

4. There is also a considerable difference between a free trade area and a customs union in so far as trade policy is concerned. While neither a free trade area nor a Customs Union Agreement necessarily obliges the countries to have a common trade policy

it may nevertheless be right to state that it is very difficult to imagine a free trade area which has a common trade policy, while on the contrary a common market encourages and facilitates a common trade policy. This is a very important fact in the case of the ECCM Countries.

5. The agreement which Antigua, Dominica, Grenada, Montserrat, St. Lucia, St. Vincent, St. Kitts-Nevis-Anguilla reached and by which the ECCM area has been created proves both points. In the first instance it is quite obvious that the ECCM Agreement could only be concluded with effect from 1 July 1968 due to the fact that the countries were not required to enforce a Common External Tariff simultaneously with the signature of the ECCM Agreement. The ECCM Member Countries recognised, however, already at that time that the full benefit of a common market could only be reaped if the free trade area could be developed into a Customs Union. This conviction finds expression in a Protocol, agreed by the Member Countries simultaneously with the signature of the ECCM Agreement, which sets as a target for the ECCM countries "to achieve at an earliest possible date a common level of Customs duties [so as] to ensure the harmonious development of their economies".

6. In conformity with this guiding principle the Member Countries worked since the creation of the ECCM continuously towards a Common External Tariff. This development concluded its first phase at the ECCM Council of Ministers Meeting in December 1969 which approved in principle the draft of a Common External Tariff prepared by the Member Countries in cooperation with the ECLA Secretariat.

7. For the sake of completeness reference must also be made to the fact that the ECCM is imbedded into the wider CARIFTA Area which like the ECCM is at present a Free Trade Area but the development of which into a Customs Union is equally envisaged. One strong

moving factor for the ECCM to which reference has to be made in this connection is the aim to give the 7 ECCM Countries a united and thus stronger position in CARIFTA. CARIFTA would then for all practical purposes consist of 5 instead of 12 components namely Barbados, Guyana, Jamaica, Trinidad & Tobago and the ECCM.

In fact many an ECCM Country expressed the view that the strengthening of the ECCM should precede any consideration concerning a Common CARIFTA Tariff. An important remark may be added in this connection, addressed more to the CARIFTA than to the ECCM namely that the ECCM Tariff has been drafted in such a way as to be a constructive tool fit to shape the future industrial development of the Member Countries. The ECCM Tariff - and the remarks in this Report - would therefore provide a useful guidance for the preparation of the CARIFTA Tariff also; in particular if CARIFTA were to adopt, as it should, the attitude (which guided successfully the Swiss Confederation in harmonising the divergent view of the heterogenous parts of its country) that it is wise for the stronger partner in a coalition to accept as far as possible solutions preferred by the weaker.

Preparation and Structure of the Report

8. The ECCM Ministerial Council in its Meeting of December 1969 agreed that the Common External Tariff of the ECCM based on the BTN (hereafter called for short 'ECCM Tariff') should be implemented not later than 1 January 1971.^{1/} Considering, however, the desire of the Member Countries of the ECCM to be sure about the fiscal effect of the new tariff the Council of Ministers also decided that ECLA should assist the individual Governments in evaluating the fiscal implications of its introduction.^{2/}

^{1/} See paragraph 37 of the Record of Proceedings.

^{2/} See paragraphs 30-31 of the Record of Proceedings.

9. In compliance with this decision the writer of this Report visited during the first half of 1970 the 7 ECCM countries on behalf of the ECLA, accompanied by a member of the ECCM Secretariat. The Country Notes which reflect these discussions and which are the basis of the General Part of this Report are made available in Volume II.

10. The discussions with these countries were carried out with a two-fold purpose in mind. In the first place, the greatest attention was paid to the situation existing in the individual countries and to the possible difficulties which the ECCM Tariff may cause to them, so as to find easily and safely applicable solutions. In the second place, an attempt was made to suggest, in cooperation with the countries, such solutions which, it could be assumed, would be generally acceptable. ^{1/} It should be stressed that it was felt that it was of the greatest importance to lay the foundation for the multi-lateral agreement necessary amongst the ECCM Member Countries to enforce a Common External Tariff and thus transform the ECCM into an effective Customs Union.

11. A special remark is necessary, however, concerning Antigua. While the Reports of all other countries reflect a detailed discussion of the various points in question, Antigua - due to her special problems - was up to now not in a position to prepare the information necessary for a detailed discussion. This, however, did not hinder the finalisation of this Report since Antigua - reserving of course her final position - has agreed in a sense of regional cooperation that the details concerning Antigua could be incorporated on the basis of available information if she would not be in a position to make the necessary detailed data available in time. ^{2/} Since use had to be made of this possibility attention has to be drawn to the fact that all remarks referring to Antigua, or the ECCM countries as a whole, have to be understood in the light of this situation.

^{1/} The attempt to find generally acceptable solutions reflects itself in the Country Notes in that they are as far as possible set up in a comparable form. This creation of a common language should be of most useful assistance to the countries in their preparation for the Council discussions and decisions.

^{2/} See Country Note "Antigua", page 59 of Volume II of this Report.

12. This, however, should in no way diminish the value of the Report, since nothing in this Report prejudices Antigua's general position. Even in the case of questions related to special wishes (such as the reservation of duty rates in the case of Protocol Items) the position of Antigua basically does not differ from that of other countries all of which, of course have maintained their right to modify their wishes during the Council Meeting, since this is the first time the relevant data will be available in a comparable form. ^{1/}

13. In so far as the form of this Report is concerned it may be remarked that it is divided in Chapters according to the main subjects. The first Chapter, "Duty Questions", deals with the fiscal effect of the introduction of the ECCM Tariff. This evaluation of the increases and decreases of the duty returns which the introduction of the ECCM Tariff may cause is of course one of the most important considerations of the Report in the sense of the terms of reference. More detailed considerations, would however, be necessary if this fiscal effect were to be assessed precisely. A further important question in this connection concerns the so-called Reserved Items. These cover goods for which the ECCM Member Countries could not agree on a common rate, but which, at the same time, include the most important fiscal items. To facilitate the decision of the Council on this point, the relevant wishes of the countries are made available in a consolidated form in Annex 1.

14. The next important question dealt with in the First Chapter concerns the so-called Exemption List, that means the List of cases in which under certain conditions lower duties can be applied than

^{1/} This applies in particular to the duties on Reserved Items, see Annex 1, page 45 of Volume I of this Report.

those provided in the Tariff. The draft of a complete List is attached in Annex 2 to serve as a basis of discussion. In this connection the fiscal question, however, was less a problem of quantity (since little change in customs returns can be expected from a change of this List) as a question of quality. It is necessary that the Exemption List not only creates an optimal fiscal situation for the developing industries ^{1/} but also ensures that this List, which in the field of duties contains most, if not all, important export incentive provisions, is applied harmoniously by all Member Countries. In connection with the discussion of this List the countries did also show a great concern to draw a clear line between the ECCM Tariff (a quasi-federal instrument which cannot easily be changed) and the individual competence of the ECCM Members to suspend fully and partially the duty rates contained in this Tariff under well-defined circumstances.

15. The First Chapter dealing with duty questions, winds up with a list of "Sundry Customs Wishes" which contains isolated suggestions made by one or the other ECCM Members with a view to their consideration by the Council.

16. Once it was established in the case of which countries and which items the ECCM Tariff would yield lower returns, the next and equally important task was to find, where necessary, the most efficient solutions to compensate for any possible loss. This is dealt with in the Second Chapter "Tax Questions". The first point which has been brought out in this Chapter is that the levy of import taxes is not compatible with the introduction of a Common External Tariff. The

^{1/} The fact that the Exemption List also deals with other questions, such as Government imports, should not be overlooked but is of secondary importance in the context of this Report.

main part of the Chapter however, deals with the questions related to the internal taxes which the various countries levy under the name of Consumption Taxes and which they wish to use as a tool to compensate for losses resulting from the introduction of the ECCM Tariff. A short reference is also made in this Chapter to the so-called Excise Duties which some countries levy but which eventually would best be replaced by a consumption tax.

17. In the discussions the countries also raised a number of questions, which, although not related to the fiscal problems are of great importance for an easy and successful introduction of the ECCM Tariff. It may be that these questions should have been treated in a special report but in the interest of giving a complete picture it was felt that all questions related to the introduction of the ECCM Tariff should be contained in one paper. For this reason they are included in this Report and discussed, however, in a special Chapter: 'Legal and Trade Policy Questions'.

18. It might be remarked that the questions discussed in this Chapter were of the greatest concern to the writer of the Report not only with a view to assist the countries in their efforts to intensify their integration but also in view of the desire to make the countries trade-policy conscious within the task entrusted to him by the UN. It is hoped that it is in this light that the Council will consider and accept this part of the Report also.

19. In particular, in so far as Trade Policy questions are concerned it must be stressed that this question is discussed in the light of pointing at trade policy events which most probably will occur in the future but which can only be successfully met by the ECCM Countries if the necessary preparations are already made well in advance. It is the particular aim of this part of the Report to be a useful preparation for the action

which will become necessary in connection with the introduction of the ECCM Tariff.

20. The Report after discussing the various questions under consideration leads each subject to the point where a decision of the Council becomes necessary. It would have therefore been possible - and systematically correct - also to bring the fiscal considerations which are due to their importance discussed rather early in the Report to their final conclusion namely the acceptance of the ECCM Tariff. This could have been done, however, only subject to a certain reservation regarding points discussed in the latter part of the Report. It was felt, however, that it would be more useful for the work of the Council to discuss the various questions of detail first and to build the Report up to its concluding Chapter: "Enforcement of the ECCM Tariff".

21. In connection with the procedural remarks reference must be made to the actions suggested to the Council. If in drafting this General Part of the Report the utmost care was given to reflect faithfully the views expressed by the ECCM Members, this applies, to a still higher degree to the summing up of their wishes in the appropriate Chapters of the Report.

22. In so far as the points on which a ruling of the Council will be necessary it would be observed from the Country Notes that the Governments expect the Council's decision on the following:

- (i) formulation of a common view on substantial questions where apparent unanimity exists (as on the point that the ECCM Tariff could be introduced on 1 January 1971);
- (ii) finding a compromise solution in instances where the wishes expressed by the Governments were not so clearly expressed or did even differ (as in the case of the suggestion to restrict the imposition

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DUTY QUESTIONS

Fiscal Effect of the ECCM Tariff

24. It may be appropriate to mention at the outset that the ECCM Tariff has been drafted with a view to bringing the countries the necessary budgetary income, a task which was successfully achieved as the calculations given on the following paragraph would show. At the same time it has to be stressed, however, that the inevitable requirement to ensure adequate returns was not - as in many past instances - given uncontrolled priority. On the contrary, it was carefully weighted against the equally important necessity to develop the local industries and to ensure that the development takes place under socially favourable conditions.

25. It has to be considered that the main task of the ECCM Tariff is to give the utmost incentive to developing industries. This is reflected in its structure which provides (with a few necessary exceptions) the possibility to import basic products and machinery not available in this region duty-free. The production incentive is made further effective by the introduction of protective rates on goods which already are - or may be - produced in this region. It is obvious that this type of incentive has great advantages. First it is easily and automatically accessible to everybody and secondly it ensures - due to the fact that the ECCM Tariff is a regional instrument - the same treatment in each of the ECCM Member Countries. Of course, in connection with the fiscal problem it is necessary to state - and the calculation carried out in the region confirms this - that due to the careful selection of protective rates the introduction of this incentive aspect will not lead to reduced fiscal returns in particular if it is considered that the goods in question were in most instances also in the past being imported duty-free. ^{1/}

^{1/} This is also true in the case of Dominica where the reduction of Customs returns is due to a lower tariff as a whole and not the result of the introduction of the incentive effect.

26. It is also important to note that the ECCM Tariff is also a social instrument in that it provides low rates for typical social items (mainly basic food and medicaments). Also this will not create an additional fiscal burden on the public for the reason that although occasionally lower social rates are provided in the ECCM Tariff than in the present tariffs this is amply compensated by higher rates on luxury products. This remark particularly applies also to food items, which are no longer considered as a unit all of which deserve lower rates, but the rates of which like for all other goods, have been fixed depending on the fact whether they serve social or luxury purposes or whether they require protection. In the light of this it may safely be assumed that the official Cost of Living Index (which is calculated on basic social products) will not increase.

27. The central consideration, namely, how the introduction of the ECCM Tariff would affect the budgetary situation of the ECCM Countries, was based in the case of each country on a comparison of the duty returns collected at present (calculated on the basis of the latest statistical figures made available by the Governments, mostly for 1967) and the duty returns which would have been collected if the ECCM Tariff had been in force in the relevant period. ^{1/} It may be remarked in this connection that the relevant calculations and considerations were based on the ECCM Tariff as approved in principle by the 4th ECCM Meeting in December 1969.

28. It is to be noted in this connection that some countries levy under the present system additional import charges which are calculated as a percentage of certain customs duties. These are occasionally called "duty surtaxes" or "license fees" as in the case of Dominica. All countries in this situation recognised that such a taxation,

^{1/} For relevant tables relating to the situation of the individual countries, see Country Notes in Volume II of this Report.

whatever the name amounts to an additional import duty and is therefore not in conformity with the idea of a truly Common External Tariff. Consequently, all considerations and calculations have been made on the assumption that these taxes will be discontinued. The income resulting from these taxes has, therefore, been added to the present duty returns in the comparison with the returns to be expected from the ECCM Tariff, so as to give a true picture of the returns required in future.

29. The comparative calculations carried out by the various countries show that regardless of the development incentive and the social benefits built into the ECCM Tariff the countries may rest assured that the duties which they will collect on the basis of the ECCM Tariff will not for the reason of the modernisation of the Tariff be less than those collected under the present system. There is of course a difference in the total returns - and consequently in the effect of a change to the ECCM Tariff - due to the fact that the present Tariff level of the various countries is different. For most countries, however, the ECCM Tariff will bring higher returns. In particular the five countries listed below can expect higher returns.^{1/}

	duty returns (Rounded up figures in WI\$1,000)	increase due to ECCM Tariff	Increase in percent of duty returns	Ref. in Vol II page
Antigua	4,300	n.a.	considerable	50 (para 2)
Grenada	2,020	160	8%	23/24
Montserrat	970	5	0.5%	52
St. Kitts	1,600	160	10%	41/42
St. Lucia	5,000	500	10%	3/4

^{1/} All figures (based on 1967 in the case of Grenada 1966) in this table have been made available by the Governments in question, or have been taken from Government Statistics as in the case of the customs returns of Antigua and Montserrat. All figures are rounded up.

30. In the case of St. Vincent it is not possible to assure that the income from the ECCM Tariff could not be less than the income under the present tariff system. In fact the calculations show that the possibility of a certain loss cannot be excluded. This loss, however, will be minimal and it is not expected that it will exceed 2.5% ^{1/} as compared with the present income from customs duty.

31. The only country which had a considerable lower Tariff and in the case of which the calculations show that the introduction of the ECCM Tariff will lead to a certain loss in returns is Dominica. The calculations bring out that the returns under the ECCM rates will be approximately 15% lower than at present, a percentage which will even increase to 20% if the necessary discontinuation of the license fee levied at present is included. ^{2/} The loss in duty returns may, however, be considerably lower due to the better distribution of protective and fiscal duties.

32. It is noteworthy that all the ECCM Member Countries supported the final enforcement of the ECCM Tariff. This is easily understandable in the case of the five countries which expect higher returns, once their mind has been set at rest concerning the fiscal implications. But also St. Vincent which might have to face a slight loss explicitly stated to be prepared to accept the ECCM Tariff and added that it may even be in a position to introduce the ECCM Tariff without any considerable change in consumption tax rates. It is particularly noteworthy that even Dominica, the country for which the introduction of the new Tariff will mean the greatest change, declared to be in favour

^{1/} The calculated loss is WI\$58,000 (see page 32 of Volume II) the total revenue from customs (including import surtax) amounts to about WI\$2,300,000.

^{2/} These are the percentage figures calculated on the basis of the Loss (about WI\$430,000 without and WI\$550,000 including license fees, see page 17 of Volume II) compared with the total returns in 1967 (about WI\$2,810,000).

of its final introduction on the understanding that it can levy the amount of income lost by increased consumption tax rates. ^{1/}

Reserved Items

33. Each of the Member Countries, in discussing the preparation of the Common External Tariff for the ECCM, reserved their position regarding the duty to be applied for certain items, indicating their difficulty to accept in this particular case a common rate. ^{2/}

34. Some of these items are for the country in question of the highest fiscal importance and the possibility to apply higher rates on these goods was necessary to make the introduction of the ECCM financially possible. In such instances the reservation simply aimed to ensure that the fiscal returns will not be less after the introduction of the ECCM Tariff than before. It should not be overlooked, however, that on the contrary, certain reservations were made to obtain specially low rates either for social or economical reasons. But also this point is fiscally relevant since its effect is a reduction of the income from duties which has to be compensated.

35. Most of these reservations are incorporated in one of three Protocols. There are however a few reservations made outside these Protocols, namely, the wish expressed by Antigua to maintain special rates on sugar, and the reservation made by Montserrat at its

^{1/} Consideration concerning consumption tax, see paragraph 64.

^{2/} Externally this fact finds itself expressed in that the draft ECCM Tariff presented to the Council does not show duty rates for those ("open") items.

accession (and therefore after agreement on Protocols had been reached) concerning motor cars and motor car spare parts. ^{1/}

36. It was the main concern of the discussions carried out by the ECCM representative to interpret these reservations in a way which not only gives clarity but also legal stability. In the first instance it was suggested, and wholeheartedly approved by the ECCM Countries, that the best approach to achieve this would be to establish first the rates which the individual countries wish to maintain in departing from the general line. The Country Notes, each of which deals with this question in a special Chapter, shows the cooperation of the countries in this effort.

37. Attention may be drawn to the fact that once a country had made a reservation to an item also other countries naturally felt entitled to request special rates.

38. The question involved was how these reservations could best be enforced. There was agreement among the countries that the easiest and legally best way would be to incorporate these rates into the ECCM Tariff.

39. A very important consideration in favour of the incorporation of the reserved rates into the ECCM Tariff is that these items become, as well as any other duty, part of the ECCM Tariff which is a regional instrument. ^{2/} All additions and changes therefore are subjected to the same procedure as the change of any generally accepted rate. Of very practical value would also be that the

^{1/} For this reason reference is made to these items as "Reserved Items" to which, less precisely, reference is made occasionally as Protocol Items although not all of them are listed in Protocols.

^{2/} Relevant legal considerations, See Annex 1, page 45 of Volume I of this Report.

public and the customs officials will have all duty rates available in one single document.

40. In the case of the incorporation of the Reserved Rates into the ECCM Tariff, the Tariff would on the first instance show the rate applicable to all countries which did not express a reservation, and special rates for all those countries which made a reservation. It should be remarked that such a solution does not infringe the value of the Protocols of Reservation but is only a way of putting them into effect. ^{1/}

41. The greatest care was given to the fixing of the special rates for reserved items since these rates will become an important and inseparable part of the ECCM Tariff. The relevant wishes have been compiled simultaneously with the preparation of this Report and are reproduced in a Common Table which is attached to this Report under the name of "List of Reserved Items". ^{2/} The central importance of these rates which affects the most sensitive part of the regional trade is as obvious as the fact that a customs union can only function satisfactorily if all points have found a generally acceptable solution.

42. It might be necessary to mention that since the countries are for the first time presented with a consolidated list of the reserved duties they will certainly have a desire to study this list carefully and possibly to revise their own position in the light of the general situation. Administratively, it might therefore be advantageous if the officials of the various countries would be given a chance to discuss this list during the traditional officials meeting which precedes the Ministers Meeting of the Council.

^{1/} Regarding the fact that nothing stands in the way that a country has a law which contains (ad informandum) a rate relevant to another country, see paragraph 86.

^{2/} See Annex 1, page 45 of this Report

43. Once the officials have studied the duties to be applied on reserved items, the Council will be in a position to discuss and possibly approve the duty rates suggested for these items with a view to their incorporation into the ECCM Tariff.

44. Attention is drawn in this connection to the fact that no uniform period is provided in the relevant Legal Instruments for the validity of these special rates but that periods are envisaged varying from three to five years. It may be recommended, from all points of view, legal and administrative, that a uniform period (e.g. of five years) should be provided, leaving it to the countries to present their case to the Council after the expiration of this period if they wish to obtain an extension of the reservation. Due to the possibility, even probability, that one or the other of these exceptions will be extended in future it is felt that no limitation in time should appear in the ECCM Tariff against the reserved items.^{1/}

45. Attention should also be drawn in this connection to another point. The fear was expressed that the fact that in the case of Reserved Items some countries will apply lower rates than others may lead to disturbing trans-shipments. It was known, of course, that the individual countries are protected legally against such trans-shipments by the requirement that only goods produced in the area benefit from the duty-free importation reserved for regional goods. Some countries felt, however, that special administrative measures may be necessary in this connection to enforce this provision.

46. In connection with the discussion of the Special Reserved Rates also the question of the right of the individual countries to suspend ECCM duties has been considered. This was necessary due to the fact that in some instances the countries explicitly wanted to reserve in

^{1/} The List of Reserved Items (Annex 1, page 45) is drafted accordingly.

this connection this right. ^{1/}Without entering at this point into a general consideration ^{2/}it seems right to say that on the whole the feeling of the ECCM countries was in favour of the right of the individual countries to reduce or suspend duties in the case of Reserved Items.

47. In summing up the considerations relevant to the Reserved Items it may be concluded that the countries intended to invite the Council:

- X (i) to agree the listed special duties ^{3/}which various countries may apply temporarily under a reservation made by them as well as the relevant general rates;
- X (ii) to decide that these rates should be inserted in the ECCM Tariff;
- X (iii) to limit this right to a period of three (five) years with a possibility of reopening discussions on this point for an extension in case the Council would approve it in one or the other instance;
- X (iv) to recognise (without prejudging the general question of the right of Countries to suspend or reduce ECCM rates) the right that all rates fixed for Reserved Items may be reduced or suspended by the individual territories.

^{1/} This situation may best be explained by an example: St. Lucia for instance not only reserved the right to apply a higher than the general duty on pharmaceutical products but also the right to suspend this higher duty fully or partially whenever it should become necessary. In other instances countries were prepared to accept a general rate but also only under the same condition to have the right to reduce or suspend them.

^{2/} The general question related to the right of the countries to suspend or reduce ECCM duties is discussed in paragraph 52 page 22 of this Report.

^{3/} As listed in Annex 1 (see page 45 of this Volume) with all the changes decided by the Council during this Meeting.

(c) Tyres and tubes -

- (i) imported for the use of agricultural enterprises; ^{1/}
- (ii) used tyres for recapping.

It is to be noted that these suggestions are supported by practically all ECCM Countries. Only in the case of tyres and tubes St. Kitts reserved the right to withhold the advantage, ^{2/} and in the case of tyres for recapping the usefulness of such a provision was queried (see paragraph 56).

54. During the discussions it came out that some countries would be agreeable not only to add these three additional items to the Exemption List but to take this opportunity to provide a revised Exemption List which should comprise all conditional duty exemptions and reductions. For facilitating the decision of the Council the draft of such a revised "List of Additional duty Exemptions and Reductions" is added to this Report. ^{3/}

55. In the light of this the Council may wish

- X (i) to find whether the items listed in paragraph 53 should
X be added to the Exemption List; and
- X (ii) to decide whether a revised List of Conditional Duty
X Exemptions and Reductions should be prepared.

^{1/} In case the revised Exemption List is accepted and in case the Council wishes to mention the possibility to import such tyres and tubes duty-free, the relevant provision should be moved from the Tariff to the Exemption List.

^{2/} This reservation will have to be inserted in the Exemption List accordingly.

^{3/} See Annex 2, page 51 of this Volume I.

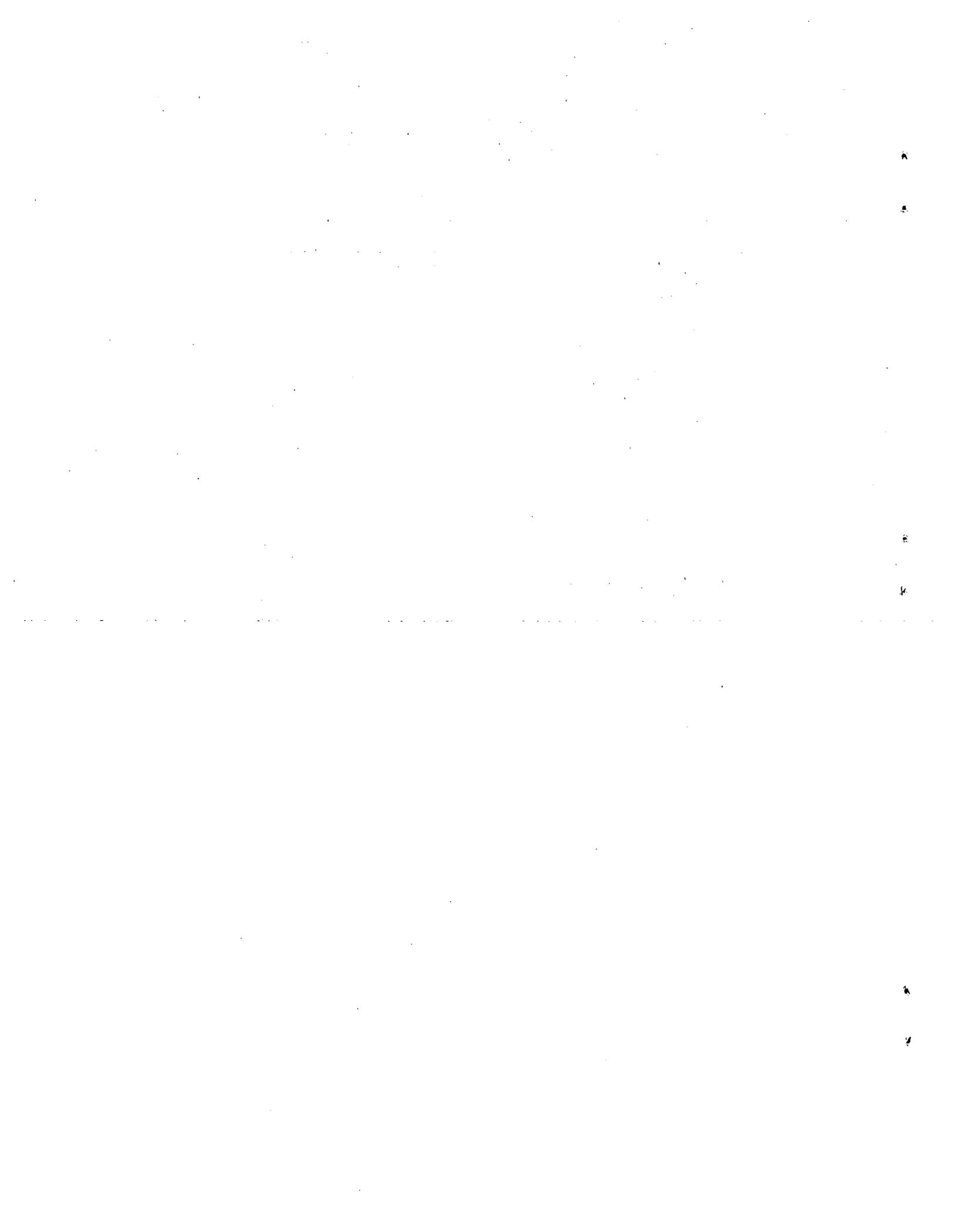
Sundry Duty Wishes

56. In the course of the discussions some countries made suggestions to alter certain adopted duty rates. This is the list of wishes:

TN.	Product	ECCM duty	Suggested duty	Wish expressed by	See Vol. II page
02.01A	<u>Meat, of bovine animals</u>	5/0	0/0	Dominica	19
02.02	<u>Chicken necks, backs and wings</u>	5/0	0/0	Montserrat St. Lucia	10 56
22.09	<u>Rum</u>	70/60	\$10.40/ 7.45 per gal.	Dominica	20
40.11	<u>Tyres & Tubes</u>	-	remove possibility to import old tyres for re- capping	St. Kitts	50
44.13	<u>Wood, planed</u>	20/15	25/15	Dominica	21

57. It is assumed that the Council

X will examine these suggestions with a view to reaching
X a decision whether the ECCM Tariff should be amended
X accordingly.
X



TAX QUESTIONS

Import Taxes ^{1/}

58. In considering the fiscal effect of the ECCM Tariff the possibility to replace reduced customs returns by taxation measures has been studied with great care. Of all the possible solutions the introduction of an import tax would have been the easiest and would have brought the clearest results. It has been recognised in this connection by all countries, however, that to replace a duty reduction by an identical amount of import taxation would simply defy the purpose of a common tariff and therefore not be compatible with the aim of creating a common market. It was found to be the general view that import taxes should not be used as a financial tool and it was even decided - as already mentioned ^{2/} - to discontinue such existing taxes simultaneously with the introduction of the ECCM Tariff under whatever name they have been applied by one or the other country.

Consumption Taxes

59. In considering the possibilities to take equalising fiscal action all countries agreed that the best way to achieve this in conformity with the individual needs would be the introduction of a local tax on products. Such a tax has the advantage that it can be levied on imported products which are taxable similar to the local product. The theory behind this internationally recognised approach is the idea that if local and foreign products are subjected to the same taxation such a tax is purely fiscal and its effect is limited to the country of importation without causing deflection in trade.

^{1/} See paragraph 28.

^{2/} "Duty surcharges" or "license fees" are the common designations.

60. Although this principle was internationally accepted by GATT at a time when GATT dealt only with countries which produce more or less all goods, it has been agreed tacitly that this provision also applies in the case of developing countries which often produce only a very limited range of goods. The reason for this liberal approach is that it permits these countries to separate their fiscal legislation from their protective and economic tariff provisions and thus assist them in their economic progress.

61. The discussions with various countries did show that all of them have already recourse to (or are in the process to introduce) a tax which is levied in the case of the existence of a local production at the point of production, and in the case of imported goods together with the import duties. This type of tax is undoubtedly the best suited to achieve this purpose since it is not only fiscally efficient but also easy and clear in its application. The rates vary widely in the different countries according to the different financial needs. Some countries apply a general rate to all imports with a few special rates while other countries only levy the tax at different rates on selected products. This is the situation:

<u>a limited number of products</u>	<u>more or less all products</u>
Grenada	Antigua
Montserrat	Dominica
St. Lucia	St. Kitts
St. Vincent	

62. This type of tax is called in the legislation of the various ECCM countries 'consumption tax' or similar other title. Without suggesting a change of the name of this tax it is, however, to be remarked that for this type of tax another name (e.g. production tax ^{1/}) would have been better so as to distinguish it from other types of consumer taxes (e.g. sales taxes, turnover taxes etc.) one or the other of which the countries might wish to introduce at a later stage.

^{1/} On the imported product a compensatory tax would be levied.

It may be stressed however, that for avoiding any misunderstanding, this Report uses the terminology which has now become common in this region and refers to this type of taxes also as "consumption tax".

63. In so far as the history of the consumption tax in this region is concerned it became evident that all countries except Antigua introduced such a tax in connection with the opening of the regional market to compensate for the consequent loss of duty returns. Also Antigua which already had recourse to the consumption tax earlier, increased at the opening of the regional market its general rate from 5% to 6%.^{1/}

64. The calculation of the fiscal effect of the ECCM tariff has brought out that no country except Dominica will be obliged to introduce a consumption tax on a wider scale since they expect either an increase of duty returns or at least feel sure that they will not have to face a fiscal loss.^{2/} Dominica, however, which expects a considerable reduction of her customs returns will be obliged to have recourse to a general increase of the consumption tax rates. The tax which Dominica will have to levy to cover this loss will have to be considerable since the customs returns may decrease as much as 20%^{3/}, which corresponds to about 10% of the total import value against 17% at present. It is estimated that to cover this decrease in income a duty of 10% on most goods would be appropriate, with higher and lower rates on special items. The scheme of such a tax has been tentatively worked out with the Government of Dominica (but without obligation on its side) so as to show the probable result.^{4/}

^{1/} See paragraph 5 on page 60 of Volume II.

^{2/} See Country Notes Volume II.

^{3/} See paragraph 31 of this Volume.

^{4/} See page 16 Volume II.

65. If most countries declared not to need a general increase of the consumption tax to equalise their fiscal situation, all of them stressed, however, the necessity of having recourse to the increase of individual consumption tax rates in the case of items of particular fiscal importance. In fact the possibility to agree to a general rate in the Tariff, or to accept a satisfactory solution in the case of Reserved Items, very often depended on the possibility of the countries to impose such higher rates.

66. It may be remarked that all countries appreciated the consumption tax as an efficient tool to separate the fiscal requirements from the economic and protective needs. In particular in the case of some Protocol Items some countries made use of the consumption tax to combine the fiscal interest with an administrative simplification in that simple and uniform protective rates in the tariff were combined in the case of certain products (e.g. petroleum products) with differentiated tax rates.

67. It can also be remarked that such a separation of the fiscal aspect has the advantage that all changes of the relevant tax provision can be made individually by each government and are thus legally disconnected from duties which are governed by the regional ECCM Tariff.

68. In discussing the application of the consumption tax rates attention was drawn to the fact that the imposition of such a tax should not destroy the social spirit in which the new ECCM Tariff has been drafted. In this connection it was generally acknowledged that as far as possible all social items (even if they should be subjected to a low duty) should be free from consumption tax measures. This would apply mainly to basic food products, medicaments or goods of interest to the local welfare.

69. Attention was drawn in this connection also to the fact that the consumption tax levied on raw materials and capital goods could easily destroy the development incentive built into the ECCM Tariff. The fact that the tax may be occasionally very low is no valid counter-argument since it is obvious that the tax even of 2% or 1% (e.g. on a knitting machine for stockings the price of which easily may exceed WI\$250,000) may be prohibitive.

70. The point was made by the ECLA representative that in the interest of safeguarding the incentive effect of the ECCM Tariff the Governments should consider whether it would not be possible that all goods which are duty-free in the Tariff or can be imported duty-free as a result of special provisions (e.g. under the provision of the Exemption List) should also be tax free. Such a solution would not only assist to foster the development of industries but have the further advantage to ensure an easy and simple administration. ^{1/}

71. It was however also stressed that a tax which is levied on goods not produced locally could be understood to be a type of import duty levied in the guise of a local tax. One Government in particular had pointed out this fact and had stressed the danger inherent in such a situation. ^{2/} The Government also suggested that, in any case, the possibility to levy consumption tax rates should be limited to the utmost. It was felt that a possible limitation, in default of more far-reaching measures, would be to "freeze" taxes on regional goods which are not produced locally in the importing country, which means that the countries should not have the right to introduce or increase such taxes after a certain date, preferably the day of the enforcement of the ECCM Tariff.

^{1/} In avoiding mainly a "negative list".

^{2/} See paragraph 8, page 25 of Volume II.

72. The most radical solution to avoid the anti-regional effect, of course, would be to free imported non-luxury products from the consumption tax which are not locally produced.^{1/} The possibility of such a far-reaching measure depends, however, on the budgetary possibilities of the individual countries. Without being in a position to obtain precise figures it shall nevertheless be attempted to estimate the percentage of the regional trade. The estimated share of the total imports from the CARIFTA Area was in 1967 about 15%, and in the case of the ECCM less than 1% of the value of total imports. The same figures are estimated to have increased since that time to about 20% for CARIFTA, and 1.5% for the ECCM imports in 1970.^{2/}

73. These figures should not be understood, however, to mean that a removal of the consumption tax on regional imports would reduce the income from these taxes by about 21.5%, as the trade figures of 1967 indicate. On the contrary, the loss might be much smaller due to the fact that important consumption tax returns come from special fiscal or luxury items (such as spirits, petroleum products etc) on which, of course, taxation of regional imports would have to be maintained. Thus the reduction of the returns of the consumption tax on imports from CARIFTA for many countries may be even less than 10%, and on imports from ECCM practically negligible.

74. The fact that most countries expressed the view that any such measure would be premature does not stand in the way of a Council recommendation aimed at a future relaxation of the taxation of regional imports. The ECCM Countries deciding on this point should,

^{1/} This formulation would permit to subject goods to the consumption tax which are produced locally. It is also meant to leave enough space to continue with the taxation of such special "fiscal" items as spirits, petrol, etc.

^{2/} See in particular the figures made available by St. Kitts paragraph 9 page 44 of Volume II.

however, not lose sight of the fact that it would be much easier to take such a decision now at the moment when the whole taxation system is revised in connection with the introduction of the ECCM Tariff and has not yet become a fixed part of the budget, than at any later date.

75. If the ECCM Countries call in this connection on the Council to obtain its ruling they do not only expect a choice between various possible solutions but expect mainly a definition of their rights. It is in this light that the Council could be invited to decide whether it wishes

- X (i) to recommend that items which are duty-free (either in the ECCM Tariff or consequent to a special decision e.g. be based on a provision contained in the Exemption List) should also be free of Consumption Tax; and
- X (ii) to find whether it could recommend that the ECCM Countries should (notwithstanding a taxation on goods produced locally or on so-called fiscal goods) abstain from levying consumption tax on imported regional products and in the case of the approval of this Recommendation at which date (if any) they should conform with this Recommendation.

Excise Duties

76. The term "excise duties" obviously dates back to a time when the word "duties" (deriving from the verb "due") was used indiscriminately for all charges and had not yet taken the meaning now almost universally attached to it of "import duties". In fact, the excise duties are the contrary of import duties in that they are levied on local products. In this the excise duties resemble very much a production tax; they differ from it, however, in that they are not levied on imported products. On the other hand, the import duties on the products affected

by excise duties are calculated in such a way as to include a compensation for the excise duty paid by local producers. This caused difficulties in the use of excise duty already in the past since any increase of an excise duty necessitated the increase of the corresponding import duty since this meant the change of two different laws, if the protection given to the local producers was to be maintained. In the case of the ECCM Tariff the question is further complicated by the fact that the ECCM Tariff is a contractual instrument based on the agreement of a number of countries a fact which makes its adaptation rather difficult should it become necessary in the case of a change of excise duty.

77. It may be noted that all ECCM Countries have traditionally recourse to Excise Duties. The number of instances in which they are applied, however, is for all countries very limited. In fact, Montserrat, St. Lucia and St. Vincent apply it only on rum and St. Kitts on beer and sugar.

78. All ECCM Countries were of the view that the consumption tax system is a much better solution since any change of its rates automatically affects local and imported products. Although some countries declared that they may not be in a position to let the excise duty effect be absorbed immediately by the consumption tax, these countries envisage such a change in due time. But also in this case it must be stressed that it would certainly be easier to make such a change in connection with the introduction of the ECCM Tariff than later.

79. In view of the fact that all countries recognised the advantage of consumer tax rates over an excise duty and that they have the intention of changing eventually their systems accordingly, and in view furthermore of the fact that the existence of excise duties does not hinder the enforcement of the ECCM Tariff, the Council will probably only wish to take note

X of the intention of the ECCM Members to replace
X
X eventually the excise duties by consumer tax rates.
X

LEGAL AND TRADE POLICY QUESTIONS

Legal Considerations

80. It is very important to note at the outset that the decision to enforce the ECCM is much more than the approval of a new Tariff namely, the agreement to widen the present Free Trade Area to a Customs Union.

81. The ECCM Tariff - being a multilateral agreement - can only be enforced by the approval of the Member Countries and their consequent ratification of the agreement.

82. This ratification requires a national law in each of the Member Countries. The procedure which the countries can follow in this connection seems to vary, however. The following they seem, however, to have in common: that the agreed ECCM Tariff must be available in their country in a form which satisfies the legislation.

83. This raises the question of the reproduction of the ECCM Tariff. All countries agreed that the printing and reproducing of the same Tariff by each country would be uneconomical. It was stressed, furthermore, that a common edition of the Tariff would be beneficial to the picture of a Customs Union. To combine the necessity of independent legal action by the various countries with the wish of a single edition of the ECCM Tariff, it was suggested - and unanimously welcomed by the countries - that the printing should be done in common and that the number of copies necessary for the local official papers should be made available to each country. ^{1/} The cost of this printing should be shared proportionately. ^{2/}

^{1/} To ensure the common use of all countries it was suggested that the size of the printing stock of this common edition should not be bigger to fit the smallest official paper.

^{2/} It could partially be recuperated from the sale of the tariffs made available to each country.

84. It is a very important fact that the ECCM Tariff is the Instrument of the Customs Union, but that its application is necessarily a function of the local governments. It is obvious that the situation requires a careful definition of the "Quasi-Federal" rights against the rights and obligations of the individual Governments. This point particularly plays a role in connection with the right to increase taxes on regional imports and in connection with the right to suspend or reduce ECCM duties - questions which have been discussed in detail already in the preceding parts of this Report. ^{1/}

85. Without attempting to repeat the numerous legal points treated in this Report reference should nevertheless be made, in connection with the question of the division of competence between region and countries, to the items for which individual governments reserved the right to apply special rates. It is recalled that in this case it was suggested to insert the individual special rates into the ECCM Tariff next to the general rates which apply to all those countries which have not asked for a special rate. ^{2/}

86. Attention is drawn to this fact which leads to a situation that for example, the special duty applied by St. Kitts under a reservation will also make part of the law of St. Lucia, although St. Lucia applies a different (e.g. the general) duty rate. In the discussion with the countries, it was clearly accepted by all of them, that nothing stands in the way of having a provision relevant to another country in their own legislation as long as it is obvious that this provision has only informative value.

^{1/} See paragraphs 46 and 50 respectively.

^{2/} See paragraph 38.

87. In this connection it shall also be remarked that the ECCM Tariff will for the sake of convenience contain statistical ^{1/} and possibly other information which must be open to easy administrative changes and which therefore, ought not to be bound by law. This can be achieved simply by stating in the introductory legislation of the Member Countries that these provisions do not make part of the Customs Law.

88. Although not a legal question in the strict sense of the word, reference may be made to the practical side of enforcing the Ratification Law and the other laws related to the introduction of the ECCM Tariff (e.g. the law which changes the consumption tax or discontinues an excise duty), namely the time which the legal machinery may require to bring them through the legislative bodies. All countries stated that there would be no difficulty to pass the laws in time so that they can become effective on 1 January 1971.

89. In concluding these considerations it is necessary to refer to one important legal question namely what will happen if one or the other country should fail to ratify the ECCM Tariff Agreement in time. The reply is simple and straightforward. The ECCM Tariff is beneficial for each individual country since it ensures (apart from its main purpose to serve as a basis of the customs union) a decisive progress as a tool to foster the industrial development and the social progress and; is in this respect a great advance compared with any of the tariffs in force. Therefore even one isolated country could enforce the tariff earlier than the others. Moreover, nothing stands in the way of a preferential area consisting of some countries which have identical tariffs and others with different tariffs. The hope must be expressed, however, that such a situation will not occur and all countries will introduce the ECCM Tariff simultaneously with a view to achieve a customs union.

^{1/} Such as the unit by which the products have to be statistically declared.

90. In connection with the considerations of the Legal Questions the Council might wish to recommend that

X
X the printing of the ECCM Tariff should be
X
X undertaken as a common ECCM enterprise (see
X
X suggestions paragraph 83).
X

Preparation for Trade Policy Action

91. The Trade Policy considerations are to be divided in two parts,

- (i) the first related to the fact that the new tariff affects the existing contractual bilateral relations with a number of countries; and
- (ii) the second that by the introduction of the Common External Tariff the ECCM Members enter into the stage of a Customs Union, a fact which affects existing multi-lateral obligations in particular the relation with GATT.

92. It is not within the scope of this Report to enter into the relevant basic questions which have been treated in a separate paper. ^{1/} Reference is made to such questions only in so far as necessary for the consideration of the main question relevant to this Report, namely to prepare in time for the necessary trade policy actions.

93. In so far as the bilateral relation with Trade Policy partners is concerned the relation with the countries of the Ottawa Agreement (mainly U.K., Canada and Australia) is the most important. It is pointed out in the Report mentioned above that these countries may claim their right to the present rates (and preferential margins) at present in force; but that the ECCM Countries have a number of arguments which speak in their favour.

^{1/} See Document ECLA/POS 69/12 of December 1969.

94. It is suggested that the ECCM Tariff should be sent to these countries for giving the countries a basis to approve the new situation as soon as it is approved by the Council. It may be expected, however, that no request may be made for negotiations since the ECCM Tariff has been drafted in such a way as to maintain on the whole the present situation. Of course, since the ECCM Tariff replaces 7 individual tariffs it necessarily departs in detail from the present situation.

95. Regardless, however, from the fact whether the countries in question ask for negotiations or not the ECCM has to be prepared for such a request. It would be unthinkable that any of these countries would wish to enter into contacts with the ECCM and would not find the necessary counterpart. It is known that the Council is in favour of entrusting the ECCM Secretariat with the task, it is felt, however, that not only a confirmation of this decision is necessary but also that the practical preparations for such a case should be made in the form of personnel and office.

96. This consideration would not be complete if attention were not drawn to the fact that the CARIFTA aims at a Common Trade Policy at the CARIFTA level. It is obvious that once this task will be achieved the ECCM Trade Policy function may be transmitted to CARIFTA as the Trade Policy function e.g. of Barbados or Jamaica. This consideration should not weaken, however, the point which was made in favour of a Trade Policy activity of the ECCM. Not only the proper functioning of the ECCM depends, until CARIFTA Trade Policy institutions will become operative, on a good administration, but also the fate of CARIFTA's Trade Policy will be influenced by it. The ECCM will in any case be well advised if bigger problems affecting the region (such as a reduction of preferential margin granted to a trade country) would only be taken up in close cooperation with CARIFTA.

97. The Council may wish, to decide on the following points:

- X (i) to transmit the ECCM Tariff immediately after its approval by the Council to all countries which at present enjoy preferential treatment;
- X (ii) to authorise formally the ECCM Secretariat (or any other body the Council feels would be appropriate) to represent the Council in Trade Policy negotiations under the supervision of the Council; and
- X (iii) to make the necessary administrative tools available which are necessary for a proper functioning of such a body.

98. In so far as the multilateral obligations are concerned it is a known fact that all members of the ECCM are bound by the obligations contained in GATT via the participation of the United Kingdom. This means that the ECCM Countries, like any other country in the case of Tariff changes, would have to enter into negotiations with GATT if tariff concessions had been bound in their name. It is important to note that since this is not the case no negotiations with GATT are necessary on this point.

99. GATT has to be informed however, of the creation of the ECCM which is a Free Trade Area and will become with the acceptance of the ECCM Tariff a customs union. It is known that under the GATT provisions, which also bind the ECCM countries, the creation of a Free Trade Area or Customs Union is only accepted if the relevant rules are in conformity with the GATT obligations.

100. It is stressed that the ECCM Agreement is in conformity with both main obligations laid down by GATT. In the first instance all internal barriers have been removed. The other rule, which obliges the countries to introduce the provisions concerning the free movement of regional goods in strict conformity with an approved

time-table, has also been conformed to by the ECCM by the mere fact that the Free Trade was introduced immediately after the enforcement of the ECCM Agreement without using the possibility of an interim period.

101. This, however, does not mean that the ECCM will not have to negotiate with GATT. On the contrary a number of important points have to be settled. In the first instance the GATT has not yet been notified of the creation of the ECCM. To this point it might be remarked that the introduction of the ECCM Tariff will be a good occasion to notify GATT simultaneously of the new Tariff and of the fact that the Free Trade Area has become a Customs Union.

102. The other point which should be clarified with GATT in this context would be the question of the membership of the ECCM countries. This question is indeed very delicate. Up to now all ECCM countries participated in the rights and obligations of GATT only indirectly through the United Kingdom. This situation could be brought to an end. There is a precedent that countries economically independent (all ECCM countries are economically independent except Montserrat which continues to be economically and politically dependent) can become members in their own right. ^{1/} To be a member of GATT may, however, be too great a financial burden on the countries in question if any country would have to pay a contribution and attend meetings. The solution would be to try that GATT accepts the economically independent ECCM countries as a unit (a sort of global membership) with the right of Montserrat to accede to this group when it becomes independent. It may be mentioned in this connection that a request of the ECCM to be represented in GATT as a group is a different matter since it does not touch on the question of membership. Such a request would undoubtedly be successful as it was in the case of other customs unions and free trade areas. Although such a representation does not solve the basic question of membership, it might be

^{1/} The great difference is that a country which is a member in its own right has a vote, while this is not the case for the countries which are considered to be a part of a bigger unit.

a way out of the difficulty caused by the difference in the GATT status of the ECCM members.

103. These considerations show quite clearly how important it is for the ECCM to put order in its relation with GATT in connection with the introduction of the ECCM Tariff. To this should be added that the proper relation with GATT is not only the basis of the trade policy relations of the ECCM with the world, but also the condition for a proper settlement of the questions pending between CARIFTA and GATT. In the light of this consideration the Council might wish

- (i) to transmit to GATT the ECCM Tariff as soon as it enters into force (1 January 1971);
- (ii) to inform GATT at that occasion of the pending transformation of the ECCM from a Free Trade Area to a Customs Union; and
- (iii) to clarify the membership relation of the ECCM countries in GATT.

ENFORCEMENT OF THE ECCM TARIFF

104. It is felt that it will facilitate the use of this Report if in this concluding Chapter the full story of the Common External Tariff of the ECCM Countries is briefly repeated not only for the reason to put this important task once more in the right perspective but also to make the basic information easily available which is necessary for the approval of the ECCM Tariff.

105. First it may be recalled that in signing the ECCM Agreement in 1967 the Member Countries permitted each other to import all goods produced by them free from practically all duties and other import obstacles. They recognised, however, at that time already that the benefits of a Common Market Area would be greater under a Customs Union arrangement which would ensure that the Member Countries operate under the same conditions in so far as the imports from third countries are concerned. This conviction of the Member Countries is expressed in their decision to create a Common External Tariff, a decision which is laid down in a Protocol signed simultaneously with the ECCM Agreement.

106. ECLA assisted the ECCM Countries on their request in the drafting of the Common External Tariff. Great care was given to the preparation of this Draft not only to satisfy the needs of the Member Countries but also to find satisfactory solutions to questions which affect all of them equally. Many of these general questions were particularly difficult to solve due to the existence of conflicting almost incompatible interests, such as to maintain the fiscal effect of the Tariff and to provide at the same time lower duties for development and social reasons. Another such difficult task was to harmonise the different duties and preferential margins in force, with the wish to modernise the trade policy relation with third countries and to conform with the obligations of GATT.

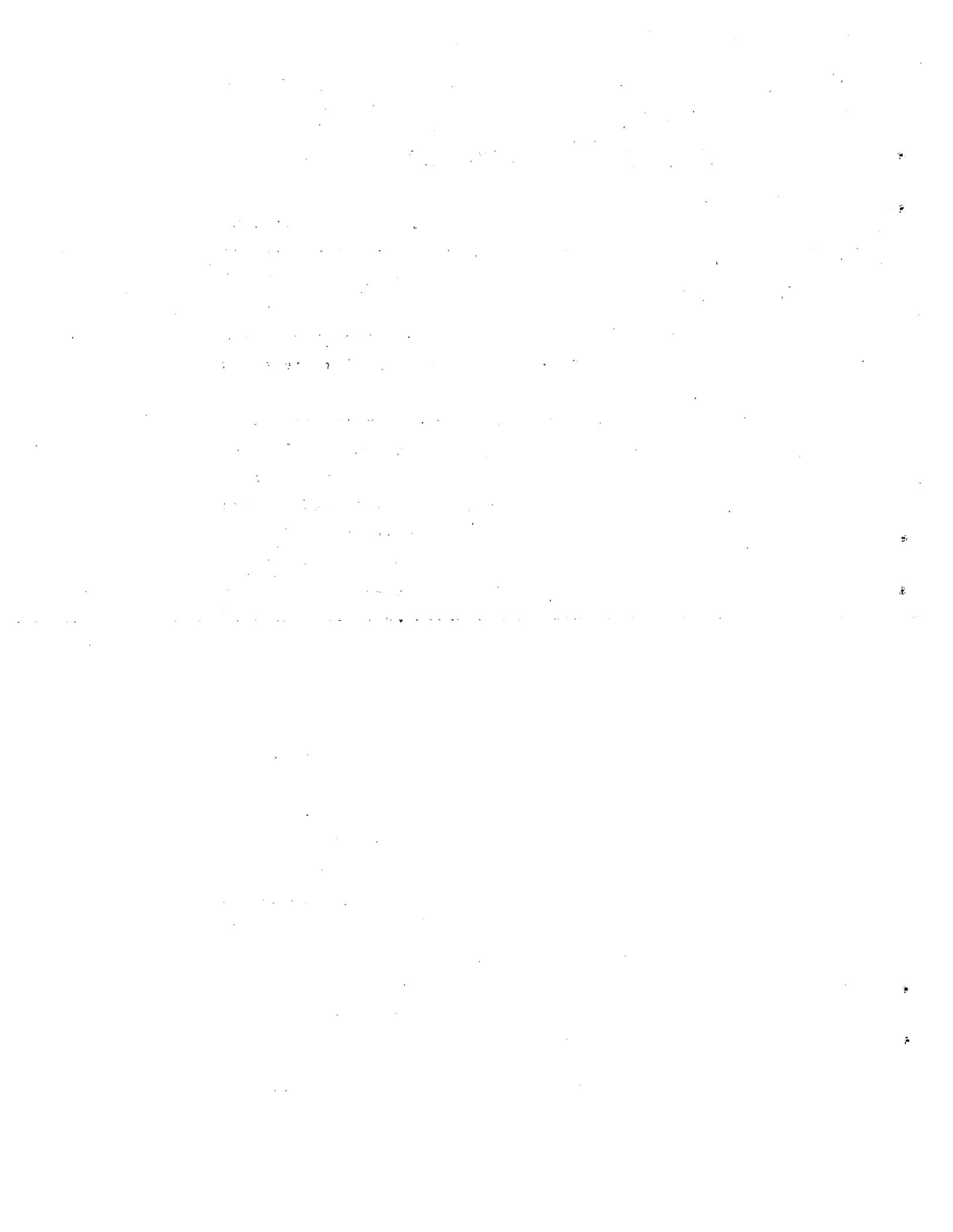
107. The Draft of a Common External Tariff, which had been prepared with a view to overcome all these difficulties and to give an optimal advantage to the ECCM Area, had been presented to the Council of Ministers in December 1969. The Council approved this ECCM Tariff in the BTN version ^{1/} in principle, obviously convinced that it would be

- . an efficient tool to activate the available national economic forces and assist successfully the Countries in their industrial development;
- . a useful social instrument; and
- . a help to the Member Countries in their effort to establish solid and useful trade policy relations.

108. Although the Council also decided in this Meeting that the ECCM Tariff should be enforced not later than 1 January 1971 the Ministers found that before the Tariff could be enforced the Member Countries should be given an opportunity to evaluate the fiscal implications of its introduction and invited ECLA to assist the Countries in this task. The discussions and studies which were initiated accordingly were carried out with the leading officials of the Member Countries. The result is laid down in the 'Country Notes' of this Report. They are summarised and evaluated in its "General Part". These studies did show clearly that the ECCM Tariff

- . will in the case of most Member Countries not lead to a reduction of the income from duties but on the contrary bring in the case of many of them an increased income;

^{1/} Attention shall be drawn to the fact that the ECCM Secretariat in preparing a new edition of the Tariff which was approved by this Meeting. This edition which is identical in content differs in form on two points: it has been brought in line with the assistance of the Brussels Co-operation Council with a recent international change of the BTN, and the numbering of the sub-items has been adapted (also in Agreement with the Brussels Co-operation Council) to direct use for punch-card and computer systems.



ANNEX 1

LIST OF DUTIES ON RESERVED ITEMS

This list contains items regarding the duties on which individual Governments reserved their position and for which, they wish to apply special rates, i.e. different from the general rates.

2. Both these rates, general and special are to be incorporated into the ECCM Tariff.
3. The validity of the special rates is limited in time. It may be three or five years, depending on the Council's decision (see paragraph 47). No deadline, however, is indicated in the List so as not to require a tariff change in case of the extension of the validity of a special rate.
4. For further detailed remarks concerning reserved items, see paragraphs 33 to 47 of the Report.

TN	Abbreviated product description	Country requesting special rate	Unit for duty ^{1/}	Special rate		General rate	
				Gen.	Pref.	Gen.	Pref.
02.01	<u>Meat and edible offals</u>						
	Meat of bovine animals					5	0
		Antigua		0	0		
		Dominica		0	0		
		Grenada		28	18		
		St. Kitts		0	0		
		St. Lucia		0	0		
	Meat of other animals					10	5
		Antigua		0	0		
		Grenada		28	18		
		St. Kitts		0	0		
		St. Lucia		0	0		
02.02	<u>Dead Poultry</u>						
	Necks, backs and wings					5	0
		Montserrat		0	0		
	Whole and other parts					25	15
17.01B	<u>Sugar refined</u>		(100 lb)\$			3.60	3.00
		Antigua	(100 lb)\$	2.80	0.67		
22.03	<u>Beer</u>					30	20
		Antigua	(per gal)\$	2.00	1.80		
		Grenada	(per gal)\$	5.00	4.00		
		Montserrat	(per gal)\$	0.45	0.20		
22.05	<u>Wine, not sparkling</u>					30	20
		Antigua	(per gal)\$	4.40	3.85		
		Montserrat	(per gal)\$	1.50	0.50		
	, sparkling					30	20
		Antigua	(per gal)\$	6.05	4.95		
		Montserrat	(per gal)\$	5.00	3.50		

^{1/} This column gives the unit for duty (e.g. WI\$10 per 100 lb or WI\$2 per 1 gal). If this column does not contain any indication the duties are ad valorem.

22.09	Spirits					
	Rum					70 60
		Antigua	* \$	4.35	3.30	
		Dominica	* \$	10.40	7.45	
		Grenada	* \$	11.25	10.80	
		Montserrat	* \$	8.00	5.00	
		St. Kitts	(per gal) \$	9.00	7.50	
		St. Vincent	* \$	10.20	9.00	
	Brandy					70 60
		Antigua	* \$	5.50	4.68	
		Montserrat	(per gal) \$	8.00	6.00	
		St. Kitts	* \$	18.25	17.00	
	Whisky					70 60
		Antigua	* \$	5.83	0.57	
		Montserrat	(per gal) \$	4.00	2.00	
		St. Kitts	* \$	18.25	17.00	
	Gin					70 60
		Antigua	* \$	4.40	2.50	
		Montserrat	(per gal) \$	4.00	2.00	
		St. Kitts	* \$	18.25	17.00	
	Vodka					70 60
		Antigua	* \$	4.40	2.50	
		Montserrat	(per gal) \$	4.00	2.00	
		St. Kitts	* \$	5.80	4.35	
	Bitters					70 60
		Antigua	(per gal) \$	7.98	7.32	
		Montserrat	(per gal) \$	1.50	1.00	
		St. Kitts	(per gal) \$	1.90	1.15	
	Other spirits					70 60
		Antigua	* \$	11.55	10.56	
		Montserrat	(per gal) \$	2.00	1.00	

* Per liquid gallon if under-proof, and per proof gallon if stronger.

24.02	<u>Tobacco Manufactures</u>				
	Cigars	(per lb)\$			9.00 8.00
	Antigua				
	(cheap)	(per lb)\$	3.36	2.10	
	"other)	(per lb)\$	4.20	3.36	
	Montserrat	(per lb)\$	4.50	3.25	
	Cigarettes	(per lb)\$			9.00 8.00
	Antigua	(per lb)\$	4.20	2.80	
	Montserrat	(per lb)\$	4.50	3.25	
	Snuff	(per lb)\$			9.00 8.00
	Antigua	(per lb)\$	4.20	2.80	
	Montserrat	(per lb)\$	4.50	3.25	
	Other manufactured tobacco	(per lb)\$			9.00 8.00
	Antigua	(per lb)\$	3.36	2.24	
	Montserrat	(per lb)\$	4.50	3.25	
25.23	<u>Cement</u>				0 0
	Antigua	(400 lb)\$	1.34	0.67	
	Dominica	(100 lb)\$	0.25	0.15	
	Montserrat		8	3	
	St. Kitts	(100 lb)\$	0.35	0.20	
	St. Lucia	(100 lb)\$	0.18	0.08	
	St. Vincent	(100 lb)\$	0.18	0.12	
27.09/ 10	<u>Petroleum Products</u>				
	Motor spirit (other than diesel)	(per gal)\$			0.30 0.20
	Antigua	(per gal)\$	0.29	0.22	
	Dominica	(per gal)\$	0.38	0.28	
	St. Vincent	(per gal)\$	0.44	0.28	
	Diesel oil	(per gal)\$			0.30 0.20
	Antigua	(per gal)\$	0.05	0.02	
	Dominica	(per gal)\$	0.13	0.09	
	St. Vincent	(per gal)\$	0.17	0.06	

Petroleum Products (continued)

	Kerosene, white spirit	(per gal) \$		0.30	0.20
	Antigua	(per gal) \$	0.07	0.04	
	Dominica	(per gal) \$	0.16	0.12	
	Montserrat	(per gal) \$	0.12	0.06	
	St.Vincent	(per gal) \$	0.06	0.06	
	Heating oils	(per gal) \$		0.30	0.20
	Antigua	-	11	6	
	Dominica	(per gal) \$	0.13	0.09	
	Lubricants	(per gal) \$		0.30	0.20
	Antigua	(per gal) \$	0.13	0.09	
	Dominica	(per gal) \$	0.24	0.16	
	oils	(per gal) \$	18	12	
	fats	-			
	St.Vincent	(per gal) \$	0.35	0.24	
	Other	(per gal) \$		0.30	0.20
	Antigua	(per gal) \$	0.20	0.13	
27.11	<u>Bottled gas</u>			25	15
30.01	<u>Pharmaceutical raw material</u> <u>of animal origin</u>			0	0
30.02	<u>Sera</u>			0	0
30.03	<u>Medicaments</u>			15	10
	St.Lucia		22	15	
30.04	<u>Wadding etc.</u>			15	10
	St.Lucia		22	15	
30.05	<u>Other pharmaceutical</u> <u>goods</u>			15	10
	St.Lucia		22	15	

40.11	<u>Rubber Tyres and Tubes</u> (The special treatment requested for tyres for agricultural use and old tyres for recapping is dealt with in connection with the Exemption List. Paragraphs 53 and 56 of the Report, Volume I)				25	15
44.05	<u>Wood sawn lengthwise,</u> sliced or peeled, but not further prepared				10	5
	Antigua					
	soft wood	**	\$	4.48	2.24	
	hard wood	**	\$	8.40	5.60	
	Grenada	**	\$	2.40	1.10	
	Montserrat	**	\$	3.75	2.50	
	St. Lucia	**	\$	4.00	3.00	
	St. Vincent	**	\$	3.00	2.00	
73.13	<u>Iron Sheets</u>				25	15
87.02-05	<u>Motor Cars</u>				35	15
	Montserrat			47	4	
	St. Vincent			35	25	
87.06	<u>Motor car spare parts</u>				25	15
	Montserrat			47	4	
	St. Vincent			35	25	

** 1000 superficial feet

ANNEX 2

DRAFT

LIST OF CONDITIONAL DUTY EXEMPTIONS
AND REDUCTIONS^{*/}

1. This list contains the cases where goods - otherwise dutiable or dutiable at a higher rate - can be imported duty-free or at reduced rates, if imported for certain purposes or under certain conditions.

*/ Remark not to become part of the Exemption List Law.

This Draft contains all items of the present Exemption List. In the remark column the corresponding item of the present Exemption List is shown against the item of this new List. This remark column also indicates minor changes as well as the new items.

It should be noted that the Draft List does not contain the following goods included in the present Exemption List which are unconditionally duty-free according to the Tariff:

- (i) Fire-fighting apparatus;
- (ii) sera and radium;

or duty-free under the privilege for regional goods:

- (iii) goods of island cottons.

2. These goods are grouped according to the use which justifies the special treatment as follows;

1. For Industry
2. For Agriculture
3. For Fishery
4. For Shipping
5. For Airlines and Flying Clubs
6. For Educational and Cultural Purposes
7. For Social and Health Purposes
8. For Government
9. For Military Forces
10. For Diplomatic Personnel
11. For the Movement of Persons
12. For Other General Purposes

3. All decisions to be taken in connection with the granting of special duty treatment provided for in this List fall in the exclusive competence of the regional Governments. The relevant comptroller to customs in particular has the right to ask in each case to be satisfied that the goods in question qualify for the special treatment and that they are used for the prescribed purpose. They are also responsible to ensure that the goods in question are not diverted to other uses.

4. Each territory furthermore has, in all cases enumerated in this List (except those mentioned in points 8 to 12) the right to withhold the benefits provided for in this List if the goods or articles in question are obtainable from a manufacturer within the Common Market Area.

Goods which benefit from the special treatment.	rate applicable gen. pref.	Remarks (for the Council only and not for insertion in the final list)
1. <u>For industry</u> ^{1/}		
(a) <u>Building material</u> - for the first installation or extension approved by the Government in question in conformity with the development incentive legislation in force in that country;	0/0	New, (see paragraph 53 of this Report).
(b) <u>Plant, equipment and appliances</u> - for the first installation or extension approved by the Government in question in conformity with the development incentive;	0/0	New, (see paragraph 53 of this Report).
(c) <u>Packing material</u> (including labels) and parts of packing material;		
(i) for the exclusive use of industries for the packing of their products;	0/0	Item 10a in present List. (wording simplified)
(ii) for the exclusive use of the manufacture of containers, and other packings.	0/0	Item 10b in present List. (wording simplified)
(d) <u>Textile fibres, yarn and material</u> (of the Chapters 50 to 57 of the ECCM Tariff).	10/5	New. This special conditional rate made part of the ECCM Draft Tariff. If it appears in this List the relevant sub-items can be taken out from the Textile Chapter.
(e) used tyres and tubes for recapping	0/0	New, (see paragraph 53 of this Report).

^{1/}The term industry is meant to include agricultural and fishery as well as hotels and to most developments, where appropriate.

2. For agriculture

- | | | |
|--|----------------|---|
| (a) animals for breeding, poultry eggs for hatching, semen for artificial insemination, all these if accompanied by a permit granted by the appropriate Minister; | 0/0 | Item 4 in present List (simplified). |
| (b) beehives and beekeeping accessories admitted as such by the Comptroller of Customs and Excise; | 0/0 | Item 7 in present List. |
| (c) tools and implements including those driven by mechanical force and used for agricultural purposes only; | 0/0 | Item 2 in present List. |
| (d) tubes and tyres used for agricultural purposes only; ^{1/} | 0/0 | New, (see paragraph 53 of the Report). |
| (e) used tubes for recapping | 0/0 | New, (see paragraph 53 of the Report). |
| (f) apparatus including storage tanks and water pipes for spraying insecticides or nematocides admitted as such by the Comptroller of Customs and Excise; | 0/0 | Item 21 in present List. |
| (g) insecticides etc. | | Item 21b in present List. |
| (i) substances which the Comptroller of Customs and Excise is satisfied are imported for use as remedies for disease or prevention of insect attack on plants and livestock; | 0/0 | |

2. For agriculture

(continued)

- | | | |
|--|-----|------------------------------|
| (ii) weedkillers and vermin killers
admitted as such by the Comptroller
of Customs; | 0/0 | Item 21c in present
List. |
| (iii) nematocides; | 0/0 | Item 21d in present
List. |
| (iv) soil conditioners approved by the
Comptroller of Customs
or the Certificate of Chief Agri-
cultural Officer. | 0/0 | Item 21e in present
List. |
| (u) Medicinal preparations, biological
products specified by the Chief
Agricultural Officer for the treatment
of animal diseases and approved by the
appropriate Minister. | 0/0 | Item 22b in present
List. |

3. For fishery

The following articles or goods which the
Comptroller of Customs is satisfied are used
exclusively by commercial fishermen:

- | | | |
|---|-----|-----------------------------|
| (a) fishing nets and gear therefor; | 0/0 | Item 16 in present
List. |
| (b) fishing lines of all types; | 0/0 | |
| (c) fish hooks; | 0/0 | |
| (d) seine twine and synthetic netting twine; | 0/0 | |
| (e) fish wire; | 0/0 | |
| (f) net preservatives (other than linseed
oil) admitted as such by the Comptroller
of Customs; | 0/0 | |
| (g) deck equipment designed solely for use
in the fishing industry, line-haulers,
pot-haulers, capstans, winches, trolling
gurdies, hand and powered headline reels
and ropes leads and fair leads used with
such equipment; | 0/0 | |

3. For fishery

(continued)

- (h) life-saving equipment including life jackets, life buoys, buoyant apparatus, inflatable rubber dinghies and distress flares; 0/0
- (i) swivels; and
- (j) all goods duty-free for shipping (see item 4) 0/0

Item 17 in present List.

4. For shipping

The following articles or goods if the Comptroller of Customs is satisfied that they are used exclusively for Government approved shipping services:

- (a) boat equipment including anchors, sea anchors, sails, oars, rowlocks, logs, turn buckles, thimbles and moorny bits; 0/0
- (b) navigational equipment including compasses, sextants, echo-sounding equipment, radio direction finders and station pointers; 0/0
- (c) sail canvas; 0/0
- (d) marine engines. 0/0

Item 17 in present List (more liberal, however, in that the limitation to coastal trade has been removed).

5. For airlines and flying clubs

The following articles and goods if the Comptroller of Customs is satisfied that they are used exclusively by Government approved airlines:

- (a) aircraft and their component parts, accessories and instruments necessary for the navigation of aircraft, for use in international services or in approved services operating within the West Indies; 0/0
- (b) ground equipment and technical supplies (excluding office equipment and supplies) imported for use within the limits of an airport in connection with the establishment or maintenance of the services specified in sub-paragraph (a); 0/0

Item 3 in present List.

5. For airlines and

flying clubs

(continued)

- (c) fuel and lubricants imported or taken out of bond solely for use in aircraft specified in sub-paragraph (a); 0/0
- (d) consumable stores for use in aircraft in flight employed in the services specified in sub-paragraph (a); 0/0
- (e) provided Government approves, the Exemptions in sub-paragraphs (a), (b) and (c) may be extended to flying clubs. 0/0

6. For educational and

cultural purposes

The following articles and goods if the Comptroller of Customs is satisfied that they are exclusively used by Government recognised cults, universities, schools, museums and other cultural institutions:

- (a) films, filmstrips, micro-films, slides, newsreels, sound recordings, and Television tapes which the Comptroller of Customs is satisfied are of an educational, scientific or cultural nature and which are imported by public or private educational, scientific or cultural institutions or societies or other organisations approved by the appropriate Minister; 0/0 Item 14a in present List.
- (b) projectors for use by the institutions Societies, or organisations referred to in (a) above; 0/0 Item 14b in present List.
- (c) specimens illustrative of Natural History or other sciences; 0/0 Present Item 23b (extended to include all sciences).

6. For educational and cultural purposes

(continued)

- | | | |
|--|-----|--|
| (d) scientific instruments and apparatus intended exclusively for scientific research, consigned to public or private scientific institutions approved by the Minister of Education for the purpose of duty-free entry of these types of articles to be used under the control and responsibility of these institutions; | 0/0 | Item 28 in present List. |
| (e) books, stationery, school apparatus and equipment, including apparatus and equipment for games and physical training, shown to the satisfaction of the Comptroller of Customs to be imported for use in schools and other educational establishments approved by the Minister and intended solely for educational purposes; | 0/0 | Item 29 in present List. |
| (f) goods imported solely for the use of religious services including furnishing for the decoration of places of worship or as vestments for use during public worship; all these goods on the signed declaration of the Head of the denomination for which they are intended that the goods and vestments will be used for such purposes; | 0/0 | Item 26 in present List. (simplified). |
| (g) goods imported by, or for the use of any Office or bureau for meteorological observations or for any scientific research institution approved by the Minister; | 0/0 | Item 23a in present List. |
| (h) telecommunication materials, instruments and apparatus imported by and solely for the use of any statutory body or public company approved by the Cabinet; | 0/0 | Item 30 in present List |

6. For educational and cultural purposes

(continued)

- (i) computers and other machinery and accessories used for government approved statistical purposes.

0/0 New

7. For social and health purposes

- (a) Articles needed for the educational, scientific and cultural advancement as well as the physical condition of the patients imported by Government recognised institutions caring for disabled persons including the blind;
- (b) books, publications and documents of all kinds in raised characters for the blind;
- (c) worn clothing admitted as such by the Comptroller of Customs imported by any welfare organisation approved by the appropriate Minister on production of a certificate from the Head or other authorised person of such organisation that such clothing is imported for free distribution;
- (d) medicinal preparations, drugs and appliances specified by the Senior Medical Officer for the treatment of diseases and approved by the Minister.

0/0

0/0

0/0

0/0

Item 5b in present List (slightly more liberal).

Item 5a in present List.

Item 8 in present List.

Item 22a in present List.

8. For Government

All Articles and goods if the Comptroller of Customs is satisfied by an official declaration that they are used exclusively by the Government, or any quasi-Governmental institution approved by the Cabinet or Head of State (e.g. President, Governor,

Items 18 & 19 in present List (simplified).

8. For Government

(continued)

Administrator) for official use but also for personal use including the use in the household. 0/0

9. For military forces

Arms, ammunition, uniforms, accoutrements and equipment on the signed declaration of the officer for the time being in command of any such force. 0/0

Item 20 in present List.

10. For diplomatic personnel

(a) All articles imported within 12 months after the official arrival by any foreign Embassy or Consulate as well as the luggage and personal effects (including one motor car) of the official representative of any foreign country, or his family. This privilege depends on the condition (i) that reciprocal privileges are accorded by the foreign countries in question; (2) that the person benefitting from the provision is not engaged in any other business or profession; 0/0

Item 9 in present List (slightly altered).

(b) heads of offices of international organisations to which the ECCM countries adhere; 0/0

(c) any person belonging to one of the offices mentioned in sub-paragraph (a) or (b) to which the relevant Government decided to extend this benefit. 0/0

11. For the movement of persons

(a) Removal goods

The term comprises the household effects of a person who move to an ECCM State in conformity with its

Item 6(2) in present List (slightly changed)

11. For the movement
of persons
(continued)

has been approved by special decision. The person in question has to satisfy the Comptroller of Customs that the goods in question have been in the bona fide use of the passenger for a period of at least one year and are not imported for sale or commercial exchange. They comprise:

0/0

Item 6(3) in present List.

- (i) baggage and household effects, imported within three months before or after the arrival of a passenger, or within such further period as the Comptroller of Customs grants the same treatment, provided that the articles would have been exempted from import duty had they been imported within the three months;

0/0

Item 6(4) in present List.

- (ii) personal effects, not being merchandise, of persons born in any one of the Common Market territories, or of persons ordinarily domiciled in any one of such territories who have died in countries outside the Common Market Area;

0/0

Item 6(5) in present List.

- (iii) the effects of all officers in the service of regional organisations within the Common Market territories transferred within such group who have already paid duty on such effects in one of the unit territories of the Common Market.

0/0

(b) Travel goods

The term comprises the accompanied baggage of a passenger or a member of the

Item 6(1) in present List.

11. For movement
of persons
(continued)

crew of an aircraft or ship passed as such by the proper officer and consisting of -

- | | | |
|---|-----|------------------------------|
| (i) a reasonable quantity of wearing apparel, articles of personal adornment and toilet requisites, whether new or used; | 0/0 | Item 6 (1a) in present List. |
| (ii) instruments and tools to be used by him for the purpose of his profession, trade, occupation or employment provided they have been in his possession and <u>bona fide</u> use for a reasonable period; | 0/0 | Item 6 (1b) in present List. |
| (iii) such potable articles including wines, spirits and tobacco in his baggage or on his person which he might reasonably be expected to carry with him for his personal use, not exceeding one bottle of spirits or wine (maximum of 40 ozs); one carton of 200 cigarettes; $\frac{1}{2}$ pound of tobacco and fifty (50) cigars; | 0/0 | Item 6 (1c) in present List. |
| (iv) personal or household effects not specified in sub-paragraphs (i), (ii) or (iii) of this paragraph which the proper officer is satisfied are not imported for sale or commercial exchange and do not exceed \$100 in total value - | 0/0 | Item 6 (1d) in present List. |

provided that the duty-free importation permitted by this sub-paragraph -

. shall not apply to members of the crew of an aircraft or ship; and

. shall apply only to a passenger who has attained the age of eighteen years and either is the holder

of a local Passport issued in one of the Common Market territories or is otherwise able to satisfy the proper officer that he is ordinarily resident in any one of such territories; and shall not be granted to a person who has been permitted duty-free importation from outside the Common Market Area under this sub-paragraph within the six-month period immediately preceding the date of return to any one of the Common Market territories.*

12. For other purposes

(a) Artificial flowers, miniature flags, buttons, brooches and similar small emblems of no commercial value imported for sale for the purpose of providing funds in aid of any institution or charitable purpose approved by the Minister;

0/0

Item 13 in present List.

(b) cups, medals, shields and similar trophies, not being articles of general utility, proved to the satisfaction of the Comptroller of Customs to be specially imported for bestowal as honorary distinctions or prizes, or when won abroad or sent by donors resident abroad:

Provided that -

- o the articles do not bear any advertisement, and
- o this exemption shall not apply or extend to the importation or stocking of the articles for purposes of trade.

0/0

Item 31 in present List.

*/ Reservation by St. Lucia and Grenada.

12. For other
purposes
(continued)

- | | | |
|--|-----|---------------------------------------|
| (c) patterns and samples, cut, mutilated or otherwise spoiled to the satisfaction of the Comptroller of Customs so as to render them unmerchantable; | | Item 24 in present List. |
| (d) advertising matter having no commercial value otherwise than as such; | 0/0 | Item 24 in present List. |
| (e) unframed photographs not imported for sale; | 0/0 | Item 25 in present List. |
| (f) packages or coverings in which any goods not liable to duty ad valorem are imported, provided the Comptroller of Customs is satisfied that they are the usual or proper packages or coverings for such goods; | 0/0 | Item 12 in present List. |
| (g) all re-imported goods on which no refund of duty has been granted and so proved to the satisfaction of the Comptroller of Customs provided that in case of repairs, renovation or improvement has taken place duty shall be payable on the value of any repairs, renovation or improvement effected outside of the Common Market Area. | 0/0 | Item 27 in present List. (simplified) |

ANNEX 3

POINTS FOR DECISION

which the ECCM Member Countries may wish to refer
to Council

	<u>Para.</u>	<u>Page</u>
1. <u>Special Duties on Reserved (or Protocol) Items</u> which certain ECCM Countries may wish to apply departing from the general rates.	47	20
(i) Approval of these rates (listed in Annex 1)		
(ii) Their incorporation in the ECCM Tariff		
(iii) The right to suspend them		
(iv) Limitation in time		
2. <u>List of Duty Exemptions</u>	55	23
(i) Addition of items to the List		
(ii) Preparation of a consolidated List (Draft attached in Annex 2)		
3. <u>ECCM rates</u> Suggestion made by certain ECCM Countries to change a few rates	57	24
4. <u>Consumption Tax</u>	75	31
(i) Recommendations that duty-free goods should also be tax free		
(ii) Consideration concerning the possibility to recommend that regional imports should be free from consumption tax		
5. <u>Printing of the ECCM Tariff</u> Providing a Common edition	90	36
6. <u>Enforcement of the ECCM Tariff</u>	109	43
(i) Approval of the ECCM Tariff		
(ii) Date of enforcement (First January 1971)		