"GATT IN ACTION"

GATT in Action is the title of the third report on the operation of the General Agreement on Tariffs and Trade, to be published on Monday 11 February 1952. This report, written by the Secretariat at the request of the Contracting Parties to GATT, follows the two earlier reports, namely the Attack on Trade Barriers (1949) and Liberating World Trade (1950). The report reviews the recent achievements of the GATT in the field of tariff negotiations, quantitative restrictions and the settlement of differences. The report also examines the GATT as an effective international instrument in relation to current trade problems and estimates its value in the general programme of international collaboration. At the end of the report there is in addition an outline of the provisions of the GATT, describing the salient points of each article.

"GATT in Action" can be obtained from U.N. Sales Agents, in English or French, $ US 0.50; 3/9d or 2.00 Swiss fr. A Spanish edition will shortly be made available through the Consejo Interamericano, Montevideo, Uruguay.

The "GATT Club"

"In the activities of the Contracting Parties and in the terms of admission to membership the reader may detect a resemblance to a 'club' where the representatives of the member governments meet from time to time to discuss and settle questions of common interest in accordance with agreed rules and in a business-like and friendly atmosphere", the Report states. "To enter this club a government pays an 'entrance fee' in the form of tariff concessions and undertakes to observe a comprehensive set of rules, but on becoming a member...

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it acquires the right to many advantages which it has itself judged to be at
least equivalent in value. Even if the rules are imperfect the acceptance of
limitations on action in matters which for centuries have been considered by
governments as falling exclusively within their sovereign rights represents an
important step forward. Admittedly the Contracting Parties have no legal power
to compel a government to do something which it does not wish to do, but a
government which accepts the rules of the GATT and subsequently digresses from
them in defiance of the Contracting Parties may lose the protection and benefits
which the GATT affords. Although the Contracting Parties have no legal means
of expulsion, a member would be severely embarrassed if condemned by its
associates and might feel compelled to resign if it could not comply with their
judgment. The moral authority of the Contracting Parties may well prove more
effective than reprisals which are apt to degenerate into economic warfare." (page 22)

Value of the Sessions of the Contracting Parties

"Through the regular sessions of the Contracting Parties the GATT brings
together important officials for discussions of the commercial policy problems
of the moment. At the close of each session these representatives know they
will meet again after a certain lapse of time and, broadly speaking, they are
familiar with the kind of questions with which they will then be called upon to
deal. Those who attend the sessions, the officials in the capitals who forward
instructions to their representatives, and the governments themselves which are
ultimately responsible for all decisions, are brought into touch with each other
through the GATT. Apart from the business on the agenda, these meetings have
afforded the national officials an opportunity for a regular exchange of views
on matters of mutual concern and have proved of great practical value in helping
to reconcile divergent national policies without the friction and misunderstanding
which so often arise when personal contacts are not feasible. The links thus
established are gradually forged into permanent relationships which maintain
their value in the periods between sessions." (page 24)

GATT Faces Serious Tests in 1952

The Report indicates that GATT faces serious tests in 1952. These are
examined, in particular, under the following headings - Settlement of Differences,
Import Restrictions, Trade Controls running counter to GATT Principles, and
Regional Integration Schemes.

Settlement of Differences

"The hearing of complaints and differences of view or interpretation is one
of the most important functions performed by the Contracting Parties at their
regular sessions. Most of these differences have been disposed of by the
Contracting Parties; some were rejected, while others were sustained and remedial
action taken by the contracting parties concerned. A few others, including some
of the most important, are still outstanding; the governments concerned have been
given time to redress the situation and they have given assurances that they are taking steps to this end. The differences not yet finally disposed of represent serious tests for the GATT.** (page 14)

One of the differences not finally disposed of are the U. S. Import Restrictions on Dairy Products. At their Sixth Session the Contracting Parties were informed by the delegates of the Netherlands and Denmark, supported by the delegates of Italy, New Zealand, Norway, Australia, France and Canada that in their view the effect of the restrictions on imports introduced by the U. S. under Section 104 of the U. S. Defense Production Act constituted a nullification or impairment of concessions granted by the U. S. within the meaning of Article XXIII of the GATT and that the restrictions constituted an infringement of Article XI. The U. S. restrictions were put into effect on 9 August 1951. (Under Article XXIII, if no satisfactory adjustment is effected through consultation, the Contracting Parties may, after investigation, authorize the injured parties to suspend obligations or concessions.) At the close of the Sixth Session the U. S. delegation reported that the Bill for the repeal of Section 104 could not be submitted to the then current 1st Session of Congress, but that it would be given very high priority at the 2nd Session in January, 1952. Hearings in the Senate on the repeal Bill were opened in January 1952. But the Senate on January 29 voted to send the Bill back to the Banking and Currency Committee. In view of the crowded schedule of Senate business this probably means that the repeal Bill has been killed for this session.

"In their treatment of differences," the Report states, "the Contracting Parties are building up a body of case law which will serve in the continuing administration and interpretation of the GATT. As a board to which differences can be referred, the Contracting Parties have now acquired prestige and have established a reputation for fair and impartial judgment commanding the loyalty and respect of the individual contracting parties." (page 14)

A second test for the GATT, to which the Report refers is a complaint "that a system of purchase tax was applied to imported goods of a kind which, when produced domestically, were exempt from tax" (page 13). This refers to the contention by certain contracting parties that part of the U. K. "Utility" goods system had come to have in practice the effect of affording protection to domestic industries, inconsistent with the provisions of Article III of GATT. The U. K. delegation reported at the Sixth Session that a committee (The Douglas Committee) had been appointed to examine the mechanism of the whole Purchase Tax and Utility System, as well as the problem of discrimination against imports, but it could not finish its work before the early months of 1952. It was reported in the U. K. press on 17 January that the Douglas Committee's report had been completed and laid before the Chancellor of the Exchequer. The results of both the "Dairy Products" and the Purchase Tax cases will be reported to and discussed by the Seventh Session of the Contracting Parties, fixed provisionally for June 1952.
1952 - a Critical Year for Import Restrictions

"In the treatment of restrictions on trade and payments 1952 will be a significant year both for the Contracting Parties to the GATT and for the International Monetary Fund", the Report states. "Commencing in 1952 the Fund is required to consult annually with member countries which retain restrictions on payments and transfers for current international transactions under the postwar transitional arrangement contained in the Fund's Articles of Agreement. These consultations by the Fund with its members are closely related to the consultations on the continuance of discrimination in the application of trade restrictions by the Contracting Parties with individual contracting parties, a special provision of Article XIV of the GATT permits most of the contracting parties to discriminate in a manner which has equivalent effect to exchange restrictions which they may apply as members of the Fund. The other contracting parties are permitted to discriminate under other rules and in accordance with other criteria, and these are required to consult with the Contracting Parties, annually commencing in 1952, on the continuance of discrimination in the application of their trade restrictions. Thus in 1952 there will take place a comprehensive review of the need for exchange restrictions and for the discriminatory application of restrictions on trade. The Contracting Parties, in their consultations with individual governments, will continue to collaborate closely with the Monetary Fund as they have done during the four years since the GATT came into force."

The above paragraph was written before the recent announcements of the United Kingdom and French Governments of their intention to impose further import restrictions in order to redress their balance of payments. These new restrictions on imports will intensify the seriousness of the tests to which GATT will be subjected in 1952.

New Controls running counter to GATT Principles

The Report points out that some of the new controls over trade in materials for industry will almost inevitably run counter to GATT principles.

"The world-wide demand for certain raw materials, aggravated by commercial and strategic stockpiling, led to the establishment of the International Materials Conference in which many of the contracting parties to the GATT participate. The commodity committees, representing producer and consumer interests, review the available supplies of essential materials and recommend measures for increasing their production and ensuring their effective distribution and use. These measures have led to the introduction of controls over trade in materials for industry; and these may be but the forerunners of further controls on an international scale stemming from other factors such as the economic and financial plans of the North Atlantic Treaty Organization. These new controls will almost inevitably run counter to the progressive removal of controls on international trade which is one of the principal aims of the GATT. But the GATT recognizes the possible need for such exceptional

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measures, and lays down the condition of equality of treatment for the international distribution of scarce products. While progress towards the early attainment of the objectives of the GATT will thus be interrupted, the very existence of its principles and the pursuit of its objectives become all the more important in the long run, because in the absence of limitations these temporary distortions would be even more harmful to trade. Governments will also be able more easily to withdraw emergency measures if these measures are regarded from the beginning as agreed departures from normal rules." (page 25)

Regional Integration Schemes

The Report also examines the effect on GATT obligations of some of the regional integration schemes such as the Schuman Plan.

"In the course of the work of the O.E.E.C., a number of schemes have been put forward, conceived on a regional basis and directed towards integration of industry and the promotion of trade. But regional schemes, no matter how desirable they may be in contending with regional difficulties, may well be self-defeating unless they are designed to fit in the broader scheme of the world economy. The process of harmonisation and adaptation involved in such schemes when they come to be worked out in practice will test the flexibility and vitality of the GATT", the Report states.

"The general intention of the plans which are being discussed in Europe today is to create a larger continental market, less broken at national frontiers by barriers of tariffs and quantitative restrictions, and to bring about an economic distribution of industry. Several plans have been proposed. Some aim at strengthening European industry and removing barriers to intra-European trade, with the assistance of new financial institutions, by nationalization or by loans to industries which would suffer hardship as a result of the removal of protective measures from which they presently benefit. Others see the most promising line of development in the creation of onemarket 'communities' embracing whole sectors of production. The Schuman Plan, which has been signed by six countries of Western Europe and awaits ratification by their parliaments, would create a free market for coal and steel in the territories of the signatories. Another plan would set up an agricultural authority for western Europe in order to establish a unified market. Finally, there are schemes which involve the reduction or removal of customs duties among the participating countries thus establishing a large European preference area."

"Some of these plans would be incompatible with obligations assumed under the GATT, and participation by contracting parties would therefore require a modification of their commitments. The Contracting Parties would then have to steer a difficult course between the rigid application of the rules of the GATT, with the risk of frustrating what
might be a promising initiative for the recovery and strengthening of the European economy and acceptance of regional arrangements which would weaken the basic principles of equality of treatment. The GATT contains the degree of flexibility necessary for the waiver of obligations, and the exercise of these powers by the Contracting Parties may well be decisive for the future of the GATT. The first request for special dispensation is likely to be presented by the governments participating in the Schuman Plan; for the acceptance of this Plan would involve certain derogations from the basic rules of the GATT and if it is to be brought into operation the signatories must seek the necessary waiver of obligations."

"It is evident that we have entered upon a period when governments are giving serious consideration to plans for economic integration involving the modification or suspension of commitments under the GATT. They may be tempted to neglect contractual obligations. All new regional schemes in Europe or elsewhere will have to be thoroughly examined in the light of the obligations of the contracting parties. New problems require new solutions, and if the GATT is to continue as a significant factor in international affairs solutions must be found which will not disturb the essential elements and principles of the GATT."

"Any international agreement is certain to encounter difficulties at times like the present. The importance to be attached to a set of trade principles or to a code of commercial behaviour, at a time of great political uncertainties and preoccupation with the needs of defence, may be questioned, but one should perhaps reflect that a compass and chart are of greater value in stormy weather than in fair weather. It is fortunate that when governments are seeking new solutions for new problems in their commercial relations and may be driven to ad hoc and emergency measures there should be, in an accepted instrument, a solid basis of agreed principles by which the day-to-day action and policy of governments can be guided and controlled. If the GATT serves a useful purpose in time of calm and normalcy, it is doubly valuable in the period of strains and stresses through which the world is now passing." (page 29)
The results of Torquay are a solid achievement. The reduction of customs duties, the binding of reduced rates for a substantial period and the generalization of the resulting tariffs for all contracting parties will combine to serve as a valuable force for promoting and expanding world trade. The reduction and stabilization (until 1 January 1954) of import duties through the GATT have done much to remove a source of great uncertainty for the trading community," the Report states.

"The cumulative effect of the three post-war tariff conferences will permit an expanding volume of trade at a more moderate level of customs duties, particularly when quantitative restrictions on imports are removed. For example, the removal by Canada of all import restrictions which were imposed for balance-of-payment reasons has enabled the reduction and bindings of her customs duties to have their full effect. The partial liberalization of trade among the countries belonging to the Organization for European Economic Cooperation, has also enhanced the importance of the lowering and binding of tariffs. Further, the three rounds of negotiations under the GATT have resulted in significant reductions in the United States tariff and have thus helped to correct the maladjustment in the balance of payments between the dollar and other currency areas by giving the non-dollar countries a better chance to sell their products in the United States market", (page 9)

The value of tariff stability has been shown clearly in recent weeks, since the Report was written. Norway, early in January, announced substantial increase in the rates of tariff duty on a list of imports. But the items (about 180 specific duty items) incorporated in the GATT Schedules, which are bound against increase, remain unchanged; only the "unbound" items are accorded increases in duty.

A New Approach to Tariff Reduction through GATT

"The special European problem, which has led to the appointment of a committee of the Contracting Parties to examine the disparities of tariff levels, is deeply rooted in the individual economic and commercial development of each country. Some countries in Europe have found it advantageous to have low duties, while others see a greater advantage in a policy of high protection. The disparities in tariff levels reflect differences in social and economic structure and the removal of the disparities would involve a correspondingly complex series of questions and, possibly, the development of new techniques", the Report states.
"This European problem presents a challenge to the Contracting Parties to find a solution within the world-wide framework of the GATT. Indeed the GATT suggests several possible courses. One would be the creation of a customs union or a free-trade area, composed of some 10 to 15 countries in Western Europe. This would be feasible within one of the provisions of the GATT which deals with customs unions and free-trade areas and allows for the necessary temporary departures from the rules of non-discrimination during periods of transition and adjustment. A study group of European countries has been examining for some time the technical problems which would be involved in establishing a common tariff for Western Europe; certain concrete results have been achieved in particular the standard tariff nomenclature which has already been accented by several countries and the adoption of a common definition of value for the purpose of assessing goods liable to ad valorem duties."

"But the difficulties which would be encountered in bringing about a full customs union are well illustrated by the experience of Belgium, Netherlands and Luxembourg in completing the Benelux Union, by the experience elsewhere, of France and Italy, whose customs union agreement still awaits parliamentary ratification, and by the decision of the Scandinavian countries not to proceed at present with the establishment of a common tariff. To establish a uniform customs tariff or an area of free trade in the widely diverse economic structures of the European countries is to face a host of problems of fiscal policy, wage levels, subsidization, investment and so forth. Moreover, it must be again emphasized, the degree of protection afforded differs from one country to another because of the dissimilarities in conditions of production and in the structure of national economies. The disparity in tariff levels is in many instances the result rather than the cause of the differences in conditions of national production, and it is not certain that much more can be achieved in customs reform unless governments decide to embark on extensive schemes for economic integration and for co-ordination of fiscal and wage policies. These would involve far-reaching decisions on national policy by governments," the Report concludes. (page 27)