TARIFF NEGOTIATIONS
Torquay

DOCUMENTS TO EMBODY THE RESULTS OF THE
TORQUAY NEGOTIATIONS

Amendments to Document GATT/TN.2/12/Rev.1
proposed by the United States Delegation

ANNEX I - TORQUAY PROTOCOL

Paragraph 3: This paragraph and the following note to read as follows:-

"(a) Subject to the provisions of sub-paragraph (b) of this paragraph, the concessions provided for in the Schedule relating to a present contracting party contained in Annex A to this Protocol shall enter into force on the 30th day following the day upon which this Protocol shall have been signed by that contracting party.

(b) Each concession provided for in the Schedule relating to a present contracting party annexed to the General Agreement, dated October 30, 1947, or contained in Annex A or B to the Annecy Protocol of terms of accession, dated October 10, 1949, which is identified in Annex C to this Protocol may be withdrawn on the thirtieth day following the day upon which notification of intention to withdraw such concession shall have been received by the Secretary-General of the United Nations; provided that, notwithstanding the provisions of Paragraph 5, such notification shall also state the intention to apply any specified concession or concessions, provided for in the Schedule relating to that contracting party contained in Annex A to this Protocol, which Annex C provides shall be applied at the same time as such withdrawal becomes effective, and any such concession or concessions in Annex A to this Protocol shall be applied on and after the thirtieth day following the day upon which such notification shall have been so received.

(c) For the purposes of this Protocol the concessions provided for in the Schedules relating to present contracting parties annexed to the General Agreement, and contained in Annexes A, B, or C to the Annecy Protocol of terms of accession, shall mean the concessions contained in such schedules as subsequently modified (i) by the provisions of any protocol relating to their rectification or modification, or (ii) by any other action, which was effective on September 28, 1950, taken pursuant to a specific provision of the General Agreement, or to procedures established by the CONTRACTING PARTIES.

Note: Legislative procedures in different countries may require a period of time before which the concessions could not be made effective.

In the case of negotiations with an acceding government this effectiveness, resulting from signature of the Torquay Protocol by a particular contracting party, could be at a date later than that on which the acceding government becomes a contracting party as a result of procedures provided for its accession.
"Subparagraph (a) is comparable to the second sentence of paragraph 1 of the original draft Torquay Protocol, and to the first sentence of paragraph 3 of the Annecy Protocol, with signature substituted for notification to the Secretary-General as the procedure for bringing the concessions into force. Since the period during which the Torquay Protocol will be open for signature is fixed in paragraph 11 (a) of the revised draft Torquay Protocol, the last sentence in paragraph 1 of the original draft becomes unnecessary.

"Subparagraph (b) requires 30 days notice for the effectiveness of withdrawals from the Geneva and Annecy Schedules made necessary by negotiations at Torquay, presumably principally by those under Article XXVIII. It would seem that the neatest way to incorporate the results of such negotiations into the Torquay Protocol would be for all positive tariff language to be applied after Torquay to be completely integrated into the appropriate Schedules to that Protocol. This would include compensatory concessions and also a complete restatement of an item, or relevant part thereof, in cases where the rate is rebound at a higher level or where the scope of the concession is narrowed. Then items, or parts thereof, in the Geneva and Annecy Schedules which had been either completely withdrawn or thus rewritten in the Schedules to the Torquay Protocol would be identified in Annex C as being withdrawn, perhaps with a statement that a particular item in the Torquay Schedule would be applied at the time such withdrawal was effected. The proviso provides that effect shall be given to these particular parts of the Torquay Schedules along with the withdrawals in Annex C, such as related changes negotiated under Article XXVIII. This may be done without waiting until a contracting party is in a position to give effect to its entire Schedule, but an item in the Torquay Schedules may not be withheld under paragraph 5 after a related withdrawal has been effected."

Paragraph 4: This paragraph to read as follows:

"4. Upon the entry into force of a schedule relating to a present contracting party contained in Annex A, pursuant to paragraph 3 (a) or upon the prior application of any specified concession or concessions provided for therein, pursuant to paragraph 3 (b), the Schedule, or the specified concession or concessions and other relevant provisions of the Schedule, shall be regarded as a Schedule to the General agreement relating to that contracting party."

Annex C: Insert the following note:

"Note: The items to be withdrawn would be identified in as simple a manner as possible. Where desired the identification could be accompanied by a note specifying any related item in the Torquay schedule, such as compensation or a rewording of the item, perhaps with a higher rate, which shall be applied at the time effect is given to the withdrawal."

ANNEX II - PROTOCOL MODIFYING ARTICLE XXVIII

The following paragraphs to be added:

"6. The amendment set out in paragraph 1 of this protocol shall, upon deposit of instruments of acceptance pursuant to paragraphs 4 and 5 of this protocol by two-thirds of the governments which are at that time contracting parties, become effective in accordance with the provisions of Article XXX of the General Agreement."
"7. The Secretary-General of the United Nations shall promptly furnish a certified copy of this protocol and a notification of each acceptance of the amendment set out in paragraph 1 of this protocol and of the date upon which such amendment becomes effective in accordance with paragraph 6 of this protocol, to each member of the United Nations, to each other government which participated in the United Nations conference on trade and employment, and to any other interested government.

"8. The Secretary-General is authorized to register this protocol in accordance with Article 102 of the Charter of the United Nations.

"In witness whereof the respective representatives, duly authorized, have signed the present protocol.

"Done at Torquay, in a single copy, in the English and French languages, both texts authentic, this ______ day of ________ 1951."