The request of the Japanese Government for an opportunity to enter into tariff negotiations with contracting parties with a view to accession to the General Agreement under Article XXXIII, as circulated in document L/205, was discussed by the Committee on Agenda and Intersessional Business at its meeting in Geneva from 26 July to 3 August (IC/SR.15 and 17). The Committee agreed to recommend to the CONTRACTING PARTIES for consideration at their Ninth Session that arrangements be made for negotiations between Japan and contracting parties wishing to negotiate, and that these be held in Geneva commencing 1 February 1955.

Further, the Committee agreed that the contracting parties which would wish to participate in such negotiations (if the CONTRACTING PARTIES adopt the Committee's recommendation) should make every effort to notify the Executive Secretary not later than 15 September 1954. Arrangements for the exchange of lists and trade data are to be made by each country directly with the Government of Japan, but the lists of requests for concessions are to be exchanged not later than 31 October.

If the negotiations with Japan are held in accordance with the Committee’s recommendations the procedures will be those adopted for the negotiations for accession at Annecy and Torquay. The procedures adopted for the Annecy Conference will be found in document GATT/CP.2/26 and those for Torquay on pages 104 to 108 of Basic Instruments and Selected Documents, Vol I. In the annex to this document is an adaptation of these procedures to make them applicable to the proposed negotiations with Japan in 1955; contracting parties which wish to participate in such negotiations may find these useful as a guide in making their preparations.
ANNEX

PROCEDURES FOR TARIFF NEGOTIATIONS WITH JAPAN

(Adapted from the Procedures for the Annecy and Torquay Conferences)

I. Scope of the Negotiations

1. Japan will be expected to consider the grant of concessions, as a general rule, on products of which any participating contracting party or any group of participating contracting parties is, or is likely to be, the principal supplier. And a participating contracting party will, as a general rule, be expected to consider the grant of concessions on products of which Japan constitutes, or is likely to constitute, the principal source of supply.

2. In addition to customs tariffs and other charges on imports and exports, certain regulations, quotas, protection afforded through the operation of import and export monopolies, etc., shall be subject to negotiation in the manner provided for in previous GATT negotiations. Accordingly, requests may be submitted for concessions in respect of such matters in the same way as requests for tariff concessions.

II. Methods of Negotiation

3. The negotiations will be conducted in accordance with the rules which provided the basis for the Geneva, Annecy and Torquay negotiations, i.e.:

(a) The negotiations shall be conducted on a selective product-by-product basis which will afford adequate opportunity to take into account the needs of individual countries and individual industries. Participating governments will be free not to grant concessions on particular products and, in the granting of a concession, they may reduce the duty, bind it at its then existing level, or undertake not to raise it above a specified higher level.

(b) No participating government shall be required to grant unilateral concessions, or to grant concessions to other governments without receiving adequate concessions in return. Account shall be taken of the value to any government of obtaining in its own right and by direct obligation the indirect concessions already embodied in the Schedules to the General Agreement.
(c) In negotiations relating to any specific product with respect to which a preference applies,

(i) when a reduction is negotiated only in the most-favoured-nation rate, such reduction shall operate automatically to reduce or eliminate the margin of preference applicable to that product;

(ii) when a reduction is negotiated only in the preferential rate, the most-favoured-nation rate shall automatically be reduced to the extent of such reduction;

(iii) when it is agreed that reductions will be negotiated in both the most-favoured-nation rate and the preferential rate, the reduction in each shall be that agreed by the parties to the negotiations; and

(iv) no margin of preference shall be increased.

(d) The binding against increase of low duties or of duty-free treatment shall in principle be recognized as a concession equivalent in value to the substantial reduction of high duties or the elimination of tariff preferences.

(e) Prior international obligations shall not be invoked to frustrate negotiations with respect to preferences, it being understood that agreements which result from such negotiations and which conflict with such obligations shall not require the modification or termination of such obligations except with the consent of the parties to such obligations or in the absence of such consent by modification or termination of such obligations in accordance with their terms.

4. An important consideration to be taken into account by Japan in its negotiations with participating contracting parties is the indirect benefit it will enjoy if it becomes a contracting party from the concessions already exchanged by the contracting parties, principally at Geneva, Annecy and Torquay. It will be expected, therefore, that, in granting tariff concessions, Japan will take into consideration these indirect benefits. Similarly, each participating contracting party will be expected to take into consideration the indirect benefits which it will receive from the negotiations between Japan and other participating contracting parties.

5. In order to ensure the success of the negotiations, the participating governments shall refrain from increases in tariffs and other protective measures inconsistent with the principles of the General Agreement and designed to improve the bargaining position of these governments in preparation for the negotiations. As a general rule, the basis for negotiations shall be the rates of duty in effect on 3 August 1954.
6. In exceptional cases, a contracting party may find that a general revision of its tariff prior to the negotiations is unavoidable. In making any such revision, the contracting party concerned should have regard to the principles stated in the preceding paragraph. In the event of a change in the form of tariff or a general revision of rates of duties to take account of either a rise in prices or the devaluation of the currency of the contracting party which has introduced the new tariff, the effects of such change or such revision would be a matter for consultation between Japan and the contracting party concerned, in order to determine first, the change, if any, in the incidence of the duties of the contracting party concerned, and secondly, whether the change affords a reasonable basis for a reciprocal and mutually advantageous conclusion of the negotiations. Moreover, except in special circumstances, any general revision in tariff nomenclature or rates of duty shall not be considered a satisfactory basis for negotiations unless it has been promulgated prior to 1 February 1955.

III. Time-table for the Negotiations

7. By a date agreed upon by the Government of Japan and each participating contracting party, the governments will send to each other and to the secretariat by airmail three copies of its current customs tariff, details of other import charges or taxes and one copy (if possible, three) of its annual import trade statistics for postwar years. In addition, it is requested that every effort should be made to supply average import statistics for 1936 to 1938 or, if this is not possible, statistics for 1936, 1937 and 1938, or if neither of these is possible, statistics for the most representative prewar year. Each participating government will advise the other government concerned and the secretariat, by telegram, the particulars of the documents despatched and the date and method of despatch.

8. It must be recognized that the foreign trade statistics of many countries are not compiled on the basis of their customs tariffs and therefore it cannot be reliably ascertained from the statistics of trade to which customs duties the various statistical items are subject. Consequently, participating governments will, in some cases, experience difficulty in determining the articles on which to request concessions and in calculating the value of concessions offered. Moreover, the customs tariffs of some countries contain the general, but not the conventional, rates of duty, and the texts of many statistical and customs publications are not available in any of the well-known languages. In order to avoid these difficulties, and to assist in the preparations for the negotiations and also in the actual conduct of the negotiations, participating governments are asked to do their best to meet all requests which may be directed to them for additional information relating to their tariffs and statistics.
9. By the date agreed upon the Government of Japan and each participating contracting party will exchange, by the most expeditious means available, lists of the products on which they intend to request concessions. Sixty copies of each list will be sent simultaneously to the secretariat for distribution to the other participating contracting parties. In order to facilitate preparations for the negotiations, it is important that the agreed dates be adhered to.

10. Not later than 31 October 1954, the Government of Japan and each participating contracting party will exchange final lists of the tariff and other concessions which they wish to obtain. Sixty copies of each list will be sent simultaneously to the secretariat for distribution to the other participating contracting parties. It is strongly recommended that all participating countries send their lists as early as possible in advance of 31 October 1954.

11. On 1 February 1955 - that is, on the first day of the negotiations in Geneva - Japan and each participating contracting party should be ready to make known the concessions they are prepared to offer in response to the request for concessions. These offers should include an indication of the existing and of the proposed rate of duty on each item. When offers have been exchanged by Japan and a participating contracting party the negotiation between these governments will begin.

12. It will be understood that Japan and any participating contracting party may arrange between themselves to conduct bilateral talks in advance of the multilateral negotiations in Geneva. In that event, the exchange of requests and offers may be arranged to take place at earlier dates than those stipulated above. In the event that bilateral talks should be successfully concluded prior to 1 February 1955, the results will be reported at the opening of the Geneva negotiation.

IV. Arrangements for the Conduct of Negotiations

13. In accordance with the successful procedure adopted at Geneva in 1947, at Annecy in 1949 and at Torquay in 1950/51, a "Tariff Negotiations Working Party" will be established at the opening of the negotiations. This Working Party will be responsible for ascertaining the progress of the negotiations and will make recommendations on questions of procedure and other matters connected with the conduct and the conclusion of the negotiations. In addition, arrangements will be made to prevent the disclosure of confidential material.

14. When the negotiations are completed each participating government will submit to the secretariat a list of all the concessions it has granted. An appropriate instrument to bring about the accession of Japan will then be drawn up. This instrument will include provision for the incorporation of the concessions in the General Agreement.