I. INTRODUCTION

1. The Sub-Group, composed of the 10 signatories of the Torquay Memorandum on European Tariff Disparities, together with the United Kingdom and Canada, held three sessions under the chairmanship of M. G. Gassiers (Belgium) and of M. Le Ghait (Belgium) to consider the plan laid before the Contracting Parties by the French Delegation at their Sixth Session.

2. In accordance with its terms of reference, the Sub-Group elaborated the technical aspects of the French Plan, with a view to facilitating its more thorough consideration by the Contracting Parties at their Seventh Session. These technical points are discussed in Part II of the Report.

3. It also examined the plan from the point of view of its application to the countries represented at its discussions, under the understanding that participation in the Sub-Group did not in any way imply a commitment to reach agreement on the principle of the French Plan. Part III of the Report contains the views expressed by members of the Sub-Group on a number of points of substance on which a decision would have to be taken before the plan could be put into effect.

4. The Sub-Group based its study on the text of the original French plan (GATT/CP.6/23) and on the additional proposals submitted by the French delegation on certain aspects of the plan (GATT/IN.2/5, MGT/73/52, MGT/77/52 and Add.1), as well as on alternative proposals submitted by other delegations, in particular those submitted by the Benelux delegation concerning the levelling-off of high tariffs, and the treatment of moderate and low duties (IN.2/15, Annexes C and D), and the Danish proposal concerning the division by sectors of trade in agricultural products (MGT/78/52). The Sub-Group also had at its disposal the extensive factual and statistical information submitted by the members of the Sub-Group on the incidence of their tariffs for each of the 570 items of the United Nations Standard International Trade Classification, on the relative importance of imports in the various sectors of trade, on the fiscal duties for which exclusion from the exercise was contemplated, as well as on the products mainly imported from non-GATT sources and for which a similar exclusion was requested.

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II. ELABORATION OF CERTAIN TECHNICAL ASPECTS OF THE FRENCH PLAN

a) Method of computation of the weighted incidence

5. The main feature of the French Plan is that the participating countries should undertake to reduce their customs duties so that the incidence of their tariff on their import trade would be reduced at the end of 3 years by 30%, as compared with the incidence recorded in a reference period prior to the adoption of the scheme. It was proposed, moreover, that the reduction would apply not to the incidence of the tariff as a whole, but to the weighted average incidence for each main branch of economic activity or "sector".

6. As the customs practices and statistical methods applied in the various countries are not uniform, it was necessary to give a definition of what the Sub-Group meant by "weighted incidence" so that the results obtained would be comparable.

7. The Sub-Group submits that the following formula would meet those requirements and would be acceptable to the various customs administrations:

\[
\text{The weighted incidence for a sector would be the ratio having:} \\
\text{(i) as its numerator the total of the duty collected on imported goods during the period under consideration;} \\
\text{(ii) as its denominator, the total of the value of the imported goods cleared out of customs control, i.e. the goods on which the duty included in the numerator was charged and those which are exempt from duty irrespective of their intended use or destination.}
\]

8. The numerator should include not only the duty levied on imported goods entering the internal market immediately upon importation, but also the duty levied on imported goods entering the internal market after passage through a bonded warehouse or a free port or as a result of diversion from transit or other arrangements under which the duty is temporarily suspended. No deduction should be made for duty drawback.

9. The denominator should cover all the goods, which have gone into home consumption; the phrase "cleared out of custom control" was introduced to meet the case of customs administrations which are not in a position to segregate those exempt goods which may be re-exported after they have been cleared from the customs. No deduction should be made from the denominator in respect of goods re-exported on drawback.
10. The Sub-Group agreed that in certain cases a participating country might be allowed to adopt a different method to calculate the numerator, when for instance duties had been temporarily suspended during the period under consideration or when substantial changes had been introduced prior to the time of adoption of the scheme. In order to meet these special cases the Sub-Group suggests that:

A participating country would be allowed to replace in the numerator the duties actually collected by the duties which would have been collected (if the rates specified in the tariff in force on ... 195... had been applied during the period considered) or (if the rates specified in the legal tariff enacted prior to ... 195... subject to such reductions as have been granted through the General Agreement on Tariffs and Trade or bilateral agreement, had been applied during the period considered).

11. If a participating country has reduced some of its rates between the base year and the commencement of the reduction exercise, it might be considered as fair to request that country to use the second method of calculation rather than the first.

b) Selection of the base year

12. The Sub-Group agreed that the weighted incidence for the base year which would serve as the basis for the 30 per cent reduction should be computed on data relating to the same year for all participating countries. It suggests as an appropriate common basis the last calendar year for which data would be available for the participating countries at the time the plan were accepted.

c) Computation of the weighted incidence during the successive stages of reduction

13. The Sub-Group examined how the reductions in the weighted incidence during the successive stages should be computed and came to the conclusion that the simplest method would be to assume that the composition of the import trade during those stages remained the same as in the base year. This would mean that in the computation of the weighted incidence, the denominator will remain without change and that the numerator would represent the total of the duties which would have been collected on the trade included in the denominator if the reduced rates had been applied.

d) Valuation of the imported goods

14. The Sub-Group examined whether the participating countries should value their imports according to their own system of valuation or whether they should be requested to use a common system, either on an f.o.b. basis or on a c.i.f. basis. It tentatively agreed that so far as the calculation of the weighted incidence and of the percentage reductions is concerned, the comparability
of the data would not be impaired if each participating country would use its own basis of valuation, provided that this would be applied consistently by each country in its calculations.

e) **Authorized exclusions from the weighted incidence**

15. Various proposals have been put forward to the effect that participating countries should be allowed to exclude certain products from the exercise. The main items for which exclusion has been contemplated are the following:

(a) products on which fiscal duties are levied
(b) products mainly imported from non-GATT or non-participating countries.

These proposals which involve points of substance are discussed in Section III below. From a technical point of view, the Sub-Group agreed that, if a product is excluded from the exercise, the duties which have been or would have been collected on that product would be excluded from the numerator of the weighted incidence, and the value of the imports of that product from the denominator.

f) **Division by Sectors**

16. The Sub-Group agreed that the division by sectors should be based on the United Nations Standard International Trade Classification, which is of more general application than any other classification or nomenclature and that, as far as possible, the division should be made along the following lines:

(i) the sub-division by sectors should follow as closely as possible the divisions of the SITC;

(ii) the groups should contain products of the same nature, i.e. raw material or semi-manufactured goods, or manufactured goods;

(iii) a substantial part of the trade between the participating countries should be covered by each sector.

The specific proposals for a division by sectors are discussed in Section III below.

g) **Technical points relating to the computation of demarcation lines, ceilings or floors**

17. The Sub-Group considered proposals concerning the levelling-off of tariffs and the treatment of moderate and low duties which would involve the calculation of ceilings or floors. Although the method described in those proposals may be imperfect in certain respects, the only adjustment which
appeared essential to some members was that the basis of valuation should be the same for all reporting countries. It was agreed that, in order to obtain comparable incidence figures, the values should be on the same basis (such as a c.i.f. basis) and that the countries applying another basis (f.o.b.) should adjust their figures to a c.i.f. basis. In the case of Canada, this would involve an adjustment of about 10 per cent. It was also suggested that the combined average for a given SITC item should exclude, not only the revenue duties as contemplated, but also the exemptions, so as to measure more accurately the degree of protection. The Sub-Group did not reach any conclusion on this point.

III. VIEWS EXPRESSED BY MEMBERS OF THE SUB-GROUP ON THE MAIN FEATURES OF THE FRENCH PLAN

a) Division by sectors

18. At its February meeting, the majority of the Sub-Group had considered as a practical basis for discussion a division into 14 sectors (IW.2/15 Annex A). At its last meeting, the French representative submitted a revised version of this proposal which provided for 11 sectors. This proposal is summarized in the Annex.

19. Two representatives considered that this new proposal impaired the flexibility of the original French Plan, which contemplated only four main branches of economic activity and indicated that the adoption of such a large number of sectors would make it more difficult for their governments to give sympathetic consideration to the scheme.

20. On the other hand, other representatives stressed that, unless a sufficiently large number of sectors were accepted, the French Plan would not enable the participating countries to assess the benefits which their export trade would derive from the scheme and that it would be difficult to induce their governments to accept a substantial reduction of their tariffs.

21. As regards agricultural and food products, the Danish member of the Sub-Group, supported by the Netherlands representative, proposed a division into four sectors as indicated in the Annex. The German representative suggested that in view of the importance of the trade in Manufactures of Metal, Division 96 of the SITC should not be included in Sector IX and should form a separate sector; for the same reason, he proposed that Sector X - Machinery and Transport Equipment - should be divided into two or three sectors.

b) Fiscal duties

22. The Sub-Group examined the list of duties which the various members considered as of distinct fiscal nature and which they intended to exclude from the exercise. Two members of the Sub-Group were of the opinion that, for the sake of simplicity and fairness, all import duties should be included in
the exercise and that no exception should be made for duties of a revenue nature. Other members stated that the fiscal duties which they wished to include represented a high percentage of their customs collections, that they had always been considered as duties of a revenue nature and had not been introduced for protective reasons. It was pointed out, however, that in certain cases, the duties listed were of a sumptuary rather than of a purely revenue nature and that, in other cases, even if their main object were to produce revenue, the duties had a distinctly protective effect and restricted foreign trade in the same way as other duties. This was particularly the case when there was a substantial domestic production of a like or directly substitutable domestic product and when the tax levied on that product was less than the import duty or the import duty plus the internal tax levied on the import product. It was therefore suggested that it might be useful to adopt some practical rule along the following lines:

A participating country would be authorised to exclude an item from the computation of the weighted incidence:

1) if the import duty levied on that item brings to the State Treasury substantial revenue and represents at least ...% of the total customs collections, and

2) if there is no substantial domestic production of that product or any directly substitutable product.

When there is an internal tax, or other charge on either of those products, and this tax or charge is not levied as such on the imported product, the part of the import duty equivalent to the internal tax or charge may be excluded from the computation of the weighted average, the other part alone being included in the computation.

In exceptional cases a special decision by the Contracting Parties or a committee empowered to do so by the Contracting Parties, may authorise the exclusion of import duty from the computation of the weighted average incidence.

23. The Sub-Group, however, came to the conclusion that it would be preferable that the requests for the inclusion of specific fiscal duties should be examined on an empirical basis, with a view to the compilation of a common list on which all participating countries would agree, being understood that special waivers might be granted in respect of duties not included in that list.

24. In the course of the discussion it was suggested that the Contracting Parties should encourage governments to convert that part of the fiscal duty which is equivalent to the internal tax levied on the like domestic product into an internal tax which then would apply equally to domestic and imported products. The other part of the duty would remain in the tariff and would no longer be considered as a fiscal duty.
b) **Exclusion of items originating principally in non-participating countries**

25. Some members of the Sub-Group stated that it would be essential for them to reserve their freedom of action regarding the duties levied on items originating mainly from countries which are not parties to GATT. It was generally agreed that this request was justified, but the Sub-Group felt that it would be preferable to achieve this result by excluding from the exercise goods which are of particular interest to non-GATT countries, rather than by excluding from the computation of the weighted incidence the duty reductions granted to non-GATT countries as a result of bilateral negotiations. It was also generally agreed that this exemption should be worded so as to enable participating countries to exclude also items of particular interest to GATT members which would not choose to participate in a scheme for a reduction of tariff levels. The Sub-Group agreed that the following rule could form a practical basis for such exclusion:

A participating country would be allowed to exclude goods of which 50 per cent or more in value were imported in a base period from non-participating countries provided that a participating country was not the principal supplier.

c) **Other proposed exclusions**

26. One representative indicated that he might wish to propose at some later stage the examination of the question whether certain food items of an agricultural origin should be excluded from the calculation of the weighted incidence and therefore from the exercise.

d) **Other adjustments suggested**

27. The Italian representative stated that, as domestic products are subjected in Italy to a more onerous fiscal regime than imported products, it would be fair to consider that, in many cases, a part of the import duty is in effect a countervailing duty, and to allow a country in the position of Italy to deduct, for the purpose of the exercise, that part of the duty which is of a fiscal nature.

28. It was agreed that this question deserved further consideration.
e) Inclusion of preferential duties in the exercise

29. Certain members of the Sub-Group stated that in their view, the level of protection granted to their domestic industry had to be measured not by the incidence of the most-favoured-nation rates applicable, but by the actual incidence of their tariff on their total import trade, part of which entered at most-favoured-nation rates and part at preferential rates. They felt therefore that any participating country should be free to include in the weighted incidence for the base year the amount of duties collected at preferential rates and the value of the preferential trade and to reckon reductions on preferential as well as on most-favoured-nation rates in the computation of the reduction by 30 per cent of the weighted incidence.

30. Other members were of the opinion that the inclusion of preferential rates and in particular the inclusion of reductions on preferential rates in the calculation of the 30 per cent reduction would enable countries having a substantial trade at preferential rates to grant on most-favoured-nation rates a reduction substantially less than that which a country having no such trade would have to make.

31. The following compromise solution had been proposed and discussed by the Sub-Group:

As a rule, the preferential trade should be included in the exercise provided that the percentage of reduction on collections on most-favoured-nation trade within a sector shall not be less than 30 per cent. Any participating country should be free to exclude the preferential trade with dependent territories and non-GATT members.

The preferential trade with GATT members could only be excluded with the consent of GATT members concerned in that preferential trade and participating in the operation.

32. The Sub-Group decided ...

f) Special treatment of low tariffs

33. Certain members of the Sub-Group representing countries whose tariffs are generally below the level of those of other participating countries stated that, in their opinion, any plan for the reduction of tariff levels should recognise that a contribution to the general reduction of tariffs has been made already by those countries whose duties are below a certain level. Various proposals have been put forward to provide for a special treatment of low tariffs. The Benelux proposal provides for a system of credits to be granted in respect of the rates applied to individual SITC items whose incidence would be below or at a lower demarcation line. Another proposal submitted by the French delegation provides for the application of smaller rates of reduction when, in a given sector, the average incidence is below that demarcation line.
34. The main difference between the two proposals is that the first provides for special treatment whenever the rate on an SITC item is below a certain level whereas the second restricts that privilege to the case when the average for a sector is below a certain level.

35. It was generally agreed that it would be fair to provide a special treatment for tariffs which are particularly low, but it did not prove possible to complete the technical examination of the methods suggested to give effect to that proposal.

g) Levelling off of high tariffs

36. Certain members of the Sub-Group considered that the participating countries should not be free to select at their discretion the tariff items on which reductions would be granted. They stressed that the French Plan would not achieve its purported object unless it were supplemented by the obligation to reduce individual tariffs exceeding a certain level.

37. The proposal submitted by the Benelux delegations in February 1952 (Document IV, 2/15, page 10) and which provided for the compulsory reduction by 30 per cent or the levelling off to a certain level of tariffs exceeding that level, met with strong opposition on the part of members of the Sub-Group who felt that such a proposal would deprive the French Plan of the flexibility which appealed to them.

38. A suggestion was made to the effect that the Benelux proposal might be accepted in principle but qualified so as to limit the obligation to reduce duties exceeding a certain level to a given percentage of those duties and to allow this reduction to be spread over three years.

39. As some members of the Sub-Group were not prepared to accept that proposal or any other proposal involving an obligation to reduce individual rates on the ground that they exceeded a certain level or to consider a possible levelling-off of high tariffs except on a selective basis, as a result of negotiations, the Sub-Group was not in a position to reach an agreement on the problem of the levelling-off of high tariffs.
h) Implementation of the 30 per cent reduction contemplated in the French Plan

40. The French Plan provided that, for each sector of their import trade, the participating countries would reduce the weighted incidence of their tariff by 10 per cent in each of three successive years, and that each of the participating countries would be free to select and modify the items on which reductions would be made.

41. The majority of the Sub-Group, while agreeing that, as a rule, each participating country should be free to select the duties on which it decides to make a reduction, were of the opinion that each participating country should disclose at or before the time the plan were accepted, the items on which reductions would be made as well as the extent of that reduction. They felt, moreover, that it was essential that the reductions announced should remain bound against increase at least until the three-year period contemplated in the French Plan.

42. Various proposals were put forward in order to achieve this result. It was suggested, for instance, that each participating country should disclose, by the time the plan were accepted, its full programme of tariff reduction for the three successive years, or the programme for the first two years, or only the programme for the first year. If the full programme were not disclosed, the programme for the remaining period or periods would be notified before the commencement of that period or periods. All these proposals provided that the reductions thus notified would be bound until the end of the three-year period contemplated for the completion of the reduction programme.

43. Although the discussion of these proposals did not lead to conclusive results, the members of the Sub-Group felt that this problem deserved further consideration and that an agreed formula might be found along the lines indicated above.

1) Binding effect of the commitments entered into under the French Plan

44. The majority of the Sub-Group considered that the reductions to be granted under the plan for the reduction of tariff levels, should not cease to be operative after the completion of the reduction programme at the end of the first three-year period.

45. It was suggested that the simplest solution would be to incorporate the tariff reductions granted under the plan into the GATT schedules so that these reductions would be governed by the same provisions as the reductions made in the course of the normal GATT tariff negotiations.

46. Some members of the Sub-Group objected to this proposal on the ground that the essence of the French Plan was to keep the weighted incidence of the tariffs at a certain level, and that the incorporation of the reductions in the GATT schedules would not ensure the stability of the weighted incidence.
They felt that the commitment regarding the level of the tariff and not the commitments regarding individual rates should be given firm validity. In any case, they were of the opinion that if the rates reduced under the plan were to be bound, the rates which had not been reduced under the plan, and in particular the low tariffs for which a special treatment was requested should also be bound or at least subject to a procedure similar to Article XXVIII of the GATT.

47. It was also pointed out that if the reductions under the plan were to be governed by the provisions of Article XIX of the GATT, it might be desirable to modify the operation of the escape clause so as to oblige a country wishing to withdraw a given reduction to grant instead an equivalent reduction on other items in the same sector, or, in exceptional circumstances, in another sector of its import trade.

48. Other members suggested that the commitments under the plan should be tacitly renewed for a further period of three years. Before the renewal takes place, each participating country would be free to modify its schedule of reductions, provided that the weighted incidence in each sector would remain at the required level. The new concessions would then be bound for a further period of three years.

49. Another suggestion was that, after the first period of three years, the commitments would be indefinitely extended along the lines of Article XXVIII of the GATT in its original form, but that any country would be free to modify individual reductions in accordance with a procedure similar to that of Article XXVIII of the General Agreement.

50. The Sub-Group did not reach an agreement on any of these proposals but came to the conclusion that the problem of the duration of the commitments and of this modification would have to be examined in detail at a later stage.
Synopsis of the Main Proposals submitted to the Sub-Group

1. Reduction of the weighted average of the tariffs

The participating countries undertake to reduce by 30 per cent in three years the weighted incidence of their tariff on their import trade in each of the following sectors:

(French proposal)¹

Sector I - Agricultural products (animal and vegetable)

Sector II - Food and seafood products

(Danish proposal)²

Sector I - Live animals, meat, dairy products, eggs and honey

Sector II - Cereals, feeding stuffs, sugar, coffee, tea, cocoa, spices and manufactures, miscellaneous, beverages, tobacco, oil seeds

Sector III - Fruit and vegetables, seeds, flowers etc.

Sector IV - Fish and fish preparations

¹ For further details, see MGT/73/52/Add.1
² For further details, see MGT/78/52
Sector III - Crude materials, including mineral fuels and lubricants and related materials

Sector IV - Chemicals, manufactured fertilisers, explosives and miscellaneous chemical materials and products; dyeing, tanning and coloring materials; medicinal and pharmaceutical products; essential oils and perfume materials; toilet polishing and cleaning preparations

Sector V - Leather, rubber, plywood, agglomerated cork materials, paper and paperboard

Sector VI - Manufactures of leather, of rubber, of wood, of cork, of paper and of paperboard

Sector VII - Textile yarn and thread

Sector VIII - Textile fabrics, clothing and made-up articles of textile materials

Sector IX - Base metals, unwrought; base metals, other than unwrought; manufactures of metal

Sector X - Machinery and transport equipment

(German proposals)

Manufactures of metal should constitute a separate sector

Sector X should be divided into two or three separate sectors

Sector XI - Non-metallic manufactures
3. **Exclusion of certain items**

In the calculation of the weighted incidence for a sector and of the reductions to be made, all the products of the sector and duties levied on these products should be included with the exception of:

a) products mainly imported from non-participating countries

(no exception in favour of fiscal duties)

b) products on which duties of a distinct fiscal nature are levied

4. **Inclusion of preferential trade**

Reduction on preferential as well as on most-favoured-nation rates will be taken into account in the calculation of the reduction of the weighted incidence.

The reduction on preferential rates will be taken into account only if the reduction on most-favoured-nation rates in a sector is at least 30 per cent.

5. **Special treatment of low tariffs**

If the weighted incidence in a sector is below the lower demarcation line, the reduction required would be less than 30 per cent and would be on a decreasing scale; if the incidence is 50 per cent or less of the demarcation line, no reduction would be required.

If for any SITC item (or part of an item) the rate of duty of a participating country is at or below the lower demarcation line, it will be considered as having been reduced by 30 per cent; any levelling-off to that demarcation line by reduction of less than 30 per cent would be counted as a reduction by 30 per cent.
6. **Levelling off of high tariffs**

*Rates exceeding the upper demarcation line should be brought down to that line or at least reduced by 30 per cent. These reductions would be counted in the overall reduction of the weighted incidence of the sector.*

*Any participating country might be allowed to reduce only a given percentage of the duties above the upper demarcation line and might choose to make these reductions in three yearly stages.*

7. **Implementation of the French plan**

*The weighted incidence would be reduced by 10 per cent in each of three successive years. No indication would be given in advance as to the individual tariff reductions contemplated. During the three year period of implementation, individual reductions might be replaced by others provided that the weighted incidence does not exceed the agreed level.*

*Each participating country should notify by the time the plan is accepted its programme of individual reductions for the three year period of implementation. All such reductions as well as low tariffs enjoying special treatment would be bound against increase until the end of that period.*

*The programme of individual reduction for the first year (or the first two years) would be notified by the time the plan is accepted; those reductions would be bound until the end of the three year period. The programme for the subsequent year or years would be notified before the beginning of the period; the reductions would also be bound until the end of the three year period of implementation.*
After the end of the first three year period, the weighted incidence would remain at or below the level reached at the end of that period; individual reductions could be withdrawn and replaced by equivalent reductions on other duties in the same sector.

At the end of each three year period, each participating country would be free to replace individual concessions by equivalent reductions of other duties in the same sector.

The new reductions would be bound against increase for a new period of three years.

Low tariffs enjoying special treatment would be bound against increase.

Safeguards might be devised to ensure that increases in duties not reduced under the plan do not impair the benefits derived from the scheme.

All tariff reductions under the plan would be embodied in the GATT schedules and governed by the GATT provisions.

The level of the weighted incidence in the sectors would no longer be bound and no specific safeguards would be devised against increases in the rates of duty which have not been reduced under the plan and therefore not embodied in the GATT schedules; the provisions of Article XXVIII would be relevant if such increases were to impair the benefits expected by a participating country.