THE GENERAL AGREEMENT ON TARIFFS AND TRADE

(GATT)

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Origin and Background

In the nineteen-thirties, when the world was suffering from an intense economic depression, many governments attempted to shelter behind various kinds of protective trade barriers: high tariff protection, quota restrictions on imports and exports, exchange controls, and so on. It became evident during the Second World War that these restrictions might become permanently fastened upon the world unless a resolute attempt was made to re-establish as soon as possible the pre-depression pattern of multilateral trading between nations. The General Agreement on Tariffs and Trade is today the major result of the efforts which were made in this direction.

The starting point of the story is in the Atlantic Charter and in the Lend-Lease Agreements in which the wartime allies bound themselves to seek together a world trading system based on non-discrimination and aimed at higher standards of living to be achieved through fair, full and free exchange of goods and services. In pursuit of this aim, long before the end of the war the United States, the United Kingdom and other important trading countries among the United Nations discussed the establishment of international organizations to tackle the post-war problems of currency, investment and trade. The International Monetary Fund and the International Bank for Reconstruction and Development were established at Bretton Woods Conference before the end of the war. But for various reasons, including its wide range and its complexity, the Charter for the International Trade Organization, which was intended to be the third agency to operate in a specialized field of economic affairs, was not completed until March 1948.

While the Charter for the ITO was being worked out, the governments that formed the Preparatory Committee (appointed by the Economic and Social Council of the United Nations to draft the Charter) agreed to sponsor negotiations
aimed at lowering tariffs and reducing other trade restrictions among themselves without waiting for the Trade Organization itself to come into being.

This was encouraging evidence of the seriousness of purpose of the countries engaged in drafting the ITO Charter and a constructive step towards carrying out one of its main purposes. Thus the first tariff negotiations were held at Geneva in 1947, side by side with the labours of the Committee which was preparing the ITO Charter. The tariff concessions resulting from these negotiations were embodied in the multilateral trade agreement which is called the General Agreement on Tariffs and Trade, or GATT. It was signed on 30 October 1947 at Geneva and came into force on 1 January 1948. Originally the GATT was accepted by 23 countries. At the end of 1954 there were 34 member countries.

By the end of 1950 it became evident that no acceptances of the Charter for the ITO - the Havana Charter - could be expected until the position of the United States towards the establishment of the ITO was made clear. With the indication in December 1950 that the Charter would not be submitted again to the United States Congress, the attempt to establish the International Trade Organization was abandoned.

The GATT was intended as a stop-gap arrangement, pending the creation of the International Trade Organization. But, as events have worked out, GATT has stood alone during seven years as the only accepted international instrument that lays down the rules of conduct for trade on a worldwide basis, and which has been accepted by a high proportion of the leading trading nations.

The GATT is administered by a small group of experts under an Executive Secretary, Mr. Eric Wyndham White. This secretariat was originally established in 1948, after the Havana Conference, to prepare for the International Trade Organization, but for the last six years it has been wholly engaged on work for the governments which comprise the Contracting Parties to the General Agreement.

Between November 1954 and March 1955 the member governments undertook a very thorough examination of the General Agreement in the light of seven years experience. They reaffirmed its basic objectives and obligations and they
reshaped some of its provisions to meet present and future needs. These revisions will come into force when governments have accepted them. The member governments also drew up an agreement which - when it has been accepted by countries with a high proportion of world trade - will establish a permanent organization to administer the GATT, thus taking the place of the present informal arrangements. The new agency will be known as the Organization for Trade Cooperation.

The Structure of the GATT

The tariff concessions, as we have said, resulting from the 1947 Geneva negotiations were embodied in the GATT. But it would be a mistake to think of GATT only in terms of tariffs. It is an agreement on tariffs and trade.

First of all there are the Articles dealing directly with tariffs - Article I with the Most-Favoured-Nation obligation and Article II, the basic tariff Article incorporating the schedules of tariff concessions resulting from the three major tariff conferences, (the Geneva Conference in 1947, the Annecy Conference in 1949 and the Torquay Conference in 1950-1951). Through these three conferences some 58,000 tariff rates have been reduced or "bound" (i.e. stabilized) among countries representing nearly four-fifths of world trade. This is perhaps the most significant result of GATT's operation so far, especially for the trading community.

Article III provides agreed rules regarding the application of internal taxes, guaranteeing that foreign goods will be given equal treatment with domestic products. Articles IV to X - known as the technical articles - are general rules and principles relating to transit trade, to anti-dumping duties, to customs valuation, customs formalities, and marks of origin. Articles XI to XV deal with quantitative restrictions on imports and exports: Article XI formally outlaws quantitative restrictions; the remainder of these Articles are qualifications to this general rule where balance-of-payment difficulties make necessary such departures. The facts relating to the balance-of-payments and monetary reserves are determined by the International Monetary Fund which the GATT countries are required to consult when balance-of-payment questions arise in the GATT.
There are further Articles dealing with state trading, subsidies and economic development, and finally, there are provisions for joint discussion and settlement of differences arising out of the application of the GATT. This aspect of GATT's work is referred to below, under Settlement of Complaints.

Such is the structure of the GATT. In fact, all its provisions are linked to and stem from the tariff concessions, because these tariff concessions would be of doubtful value if the parties to the Agreement were to have their hands free in all other fields of commercial policy; for, given such freedom, it would be possible entirely to nullify the benefits accruing from concessions made in tariff rates. The result has been to create a code of commercial policy rules generally accepted and generally binding. It is therefore not surprising that the periodic sessions of the governments which are contracting parties to the GATT have become a valued piece of international machinery for the discussion at commercial policy. In this connection the remarks of the Chairman of the Eighth Session can be quoted: "The GATT is not a list of restraints and prohibitions reluctantly accepted by governments, but a set of principles and rules which all of us accept because they are in the common long-run interest."

Sessions of the Contracting Parties: Settlement of Complaints

So far, nine sessions of the Contracting Parties have been held and the tenth is due to convene in Geneva in October 1955. What kind of problems come before these regular sessions? Among the most significant are the trade disputes which have been brought before the Contracting Parties under the Article XXIII procedures, which enable complaints to be made that benefits under the Agreement are being nullified or impaired. (A contracting party which considers that a benefit which should accrue to it is being nullified or impaired or that the attainment of any objective of the Agreement is being impeded may seek consultations with the parties concerned. If, after consultations, no satisfactory adjustment is reached a complaint may be lodged and the Contracting Parties are then required to carry out prompt investigations, to make recommendations or to give rulings.)
A technique for dealing with complaints has been established by which a panel of neutral assessors i.e., representatives of countries which have no direct interest in the case, examine all aspects of the complaint impartially and report their findings and recommendations to the Contracting Parties as a whole. Of course not all the complaints reach the point of being brought before a Session because they may be settled 'out of court', so to speak, through direct consultations between governments either during the Session, or through normal diplomatic channels.

Great and small countries have been involved in these applications, both as complainants and as defendants. For example, in 1950 a complaint was made to the Contracting Parties that the British system of Purchase Tax so operated as to discriminate in favour of domestic products and against similar imported goods. The United Kingdom Government admitted that the tax did have this discriminatory effect, though unintentionally. They agreed to amend the system so as to eliminate the element of discrimination and thus bring the operation of the tax into conformity with the obligations of the United Kingdom under the Agreement. In 1952 this pledge was fulfilled.

The United States and Canada complained that Belgium was imposing discriminatory import restrictions aimed against imports requiring payment in dollars, although Belgium was not in balance-of-payment difficulties. Belgium undertook progressively to eliminate this discrimination and reported in 1954 that all exchange restrictions on dollar imports had been abolished. Complaints by Chile against Australia, by Norway against Germany, by the United Kingdom and France against Greece have been successfully dealt with. In 1952 India brought before the Contracting Parties a complaint against Pakistan about the levying of discriminatory taxes on exports of jute to India. The Contracting Parties felt that this question might be more easily resolved if it were considered together with other trading difficulties between the two Governments, including the conditions under which coal was supplied by India to Pakistan. Therefore they invited the two governments to consult together with a view to finding a solution along these lines. These consultations were concluded successfully when the two governments signed a long-term trade pact and agreed to drop the discriminatory levies in question. More recently, a French tax on
imports and exports, which was intended to provide a social assurance fund for agricultural workers, was the subject of complaint as an infringement of the GATT. The French Government undertook to remove the tax and this was done at the end of 1954.

Other complaints successfully dealt with in 1954 included the suppression of a discriminatory tax levied on imports by the Belgian authorities, and the lessening of restrictions on American coal imported into Germany. In another type of case, Sweden undertook to remove the cause of a complaint by Italy that Swedish anti-dumping duties on Italian nylon stockings were being applied unfairly. In another, following a complaint by Czechoslovakia, trade between that country and Peru, which was previously stopped by the Peruvian Government, was restored. A complaint by Italy about Turkish import taxes and export subsidies was settled 'out of court'.

Not all disputes have been resolved successfully through the GATT machinery. Probably the most serious has been the complaint by a number of countries against the United States import restrictions on dairy products. At successive sessions the Contracting Parties stated clearly that these were a violation of the Agreement. The United States Administration agreed that this was so, but their efforts to remove the restrictions by legislative means have been unsuccessful. For three years in succession the Contracting Parties have authorized one affected country, namely the Netherlands, to limit imports of United States flour by way of compensation. The Contracting Parties have always recognized, however, that retaliation is no solution to a problem of this kind, and in the course of the review of the Agreement in 1955, they granted a waiver to the United States recognizing the right of the United States Administration to impose import restrictions where it has to do so under the terms of the Agricultural Adjustment Act. At the same time the rights of injured countries to have recourse to the GATT complaints machinery is preserved and the Contracting Parties will review each year the action taken by the United States under this legislation.

Another complaint of more recent origin, which has not yet been solved, concerns the compensation tax imposed on many French imports which have been freed from quota restrictions when imported from the member countries of the
At the Ninth Session this was recognized as a breach of GATT obligations and the French government undertook to remove the tax as soon as possible.

The Removal of Quantitative Restrictions

The principle of non-discrimination in trade and the general prohibition (with specified exceptions) on the use of quantitative restrictions on imports had always been one of the basic principles of the General Agreement. The main exception is the use of quantitative restrictions to safeguard the balance of payments situation, and, in certain circumstances, the use of such restrictions in a discriminatory way. The GATT requires countries resorting to the discriminatory application of the restrictions to consult from time to time with the Contracting Parties and also whenever restrictions are substantially intensified. The purpose of consultations on discriminatory restrictions, which are held at each annual Session, is to afford an opportunity for the exchange of views on the problems facing the countries following this practice and the difficulties which are thus created for exporting countries. The Contracting Parties accept the findings of the International Monetary Fund on the financial basis for the restrictions and discuss the policy and administration of the restrictions.

In the course of their consultations the Contracting Parties have been very much concerned with the incidental protective effects of import restrictions. Governments applying restrictions have acknowledged that the protective effects should be reduced to a minimum, but in fact most quantitative restrictions, whether intentionally or not, are performing two functions, one financial and the other protective. There is, therefore, an ever present danger that the protectionist factor may become a guiding consideration in determining which products are to be subject to import restrictions. Many enterprises have not had to compete with imported products in substantial quantities for fifteen years or more, and young industries which have grown up or become established since the Second World War have never had to face the full impact of competition with imports. The consultations under the Agreement have thus
had a valuable psychological influence in that they keep constantly in the foreground the fact that quantitative restrictions on imports are not permanent and that the incidental protection they offer to domestic industry is also not permanent.

In the review of the GATT in 1954-1955 the basic principle that quantitative restrictions must be eliminated as soon as they are no longer justified for balance-of-payments reasons was reaffirmed. In order to adapt this principle to the period when major currencies are expected to become convertible, the emphasis in the future (i.e. after the revised GATT becomes operative) will be put on annual consultations in which countries still applying this type of restriction on imports will be required to justify them. In addition, in the course of the Review, it was recognized that some countries may have difficulty in dismantling the so called 'hard core' of these restrictions, and subject to the concurrence of the Contracting Parties in each case, a country will be allowed to retain for a strictly limited period restrictions originally imposed for balance of payments purposes but no longer justified on that account.

The Reduction of Tariffs

The reduction of tariffs is laid down in the General Agreement as one of the principal means of attaining its broad objectives. As stated above, in the three tariff negotiations conferences in 1947, 1949 and 1951 the tariff rates for some 58,000 items were reduced or bound against increase. About 80 per cent of the United States import trade is today covered by rates of duty bound under the GATT, and it has been estimated that if the GATT bindings were withdrawn the increase in rates of United States duties on such items would average at least 65 per cent. The GATT is, in effect, the most comprehensive undertaking for reducing and stabilizing rates of customs duties ever brought into operation.

New Techniques for reducing Tariffs

In the past three years much time and energy have been given to the search for new methods of tariff reduction, because many governments have come to the
conclusion that if tariff reduction is to continue to contribute towards the solution of current economic difficulties the techniques so far employed—which are based on strict reciprocity—will require some modification. One of the main difficulties arises from the fact that some countries have relatively high tariffs and others relatively low tariffs. Following the three tariff conferences, countries with relatively low tariffs find it increasingly hard to lower their tariffs any further, while countries with relatively high tariffs are unwilling to accept the continued binding of low rates of duty as compensation for further reductions on their part. Thus the whole system of negotiation on a strictly reciprocal basis tends to become sterile and unproductive, and it becomes increasingly clear, particularly from the point of view of low tariff countries that if a further reduction in tariffs is to be brought about, some new basis for negotiation may have to be found.

The main discussions between governments under the GATT have been concentrated on the possibility of adopting some kind of automatic formula whereby countries would reduce the duties in selected or specified parts of their tariffs. In 1951 a plan for the reduction of tariffs on a world wide basis by 30 per cent was put forward by the French Government, and by 1953 this plan had been submitted to detailed technical study, so that it had reached a form in which it could be examined by governments in the relation to its impact on their trade. One of the advantages of this plan is that there would be special provisions for countries in process of economic development.

The Assured Life of the Tariff Concessions

The tariff concessions contained in the original schedules annexed to the General Agreement entered into force in 1948 with an assured life of three years, until the end of 1950. After that time a contracting party could modify or withdraw any concession by negotiation and agreement with the government with which it had been negotiated. Governments involved in such negotiations were to endeavour to maintain a level of concessions not less favourable to trade than those originally provided for in the schedules. If no agreement could be reached on compensatory adjustments on other products, the contracting party would, nevertheless, be free to modify or withdraw the concession and, in that
event, the other contracting party could withdraw equivalent concessions.

Thus, there has always been the possibility that after the period of binding, extensive renegotiation and possibly withdrawal of items might ensue, with the danger of a gradual or even speedy unravelling of the network of concessions. To prevent this eventuality the assured life of the schedules was extended for a second period of three years until the end of 1953. At their Eighth Session the Contracting Parties agreed to a further extension until July 1955, and in the course of the review of the GATT, in 1955, it was agreed that the assured life of the schedules should be further prolonged to 31 December 1957. In addition, a new principle was introduced envisaging the automatic extension of the assured life for successive periods of three years, with suitable opportunities for individual adjustments of tariff rates.

Regional Arrangements

Although one of the objectives of the General Agreement is "the elimination of discriminatory treatment in international commerce", the Agreement is designed not to prevent the formation of economic or customs unions involving the removal of tariffs and other trade barriers between participating countries. Therefore, if a project for union, through establishing an interim preferential régime, is expected to lead to the removal of all barriers between the participating countries - i.e. to a customs union or free-trade area - it can be condoned and even encouraged. The Benelux Customs Union, uniting the Netherlands with the Economic Union of Belgium and Luxemburg, was formed, and the common Benelux tariff was established before the General Agreement came into effect. These three governments therefore became contracting parties with one tariff and one schedule of concessions. Other special arrangements of the kind, made since the Agreement was established, are the customs union agreement of 1949 between South Africa and Southern Rhodesia, and the free-trade area between Nicaragua and El Salvador.

While the Agreement provides for interim agreements leading to the formation of customs unions and free-trade areas, no provision is made for the formation of unions limited to sectors of trade such as the Coal and Steel Community in Western Europe. Therefore the plans of the Governments of
Belgium, Luxemburg, France, Netherlands, Germany and Italy to create a common market throughout their territories for coal and steel were submitted to the Contracting Parties who were requested to grant a waiver of certain obligations. At their 1952 Session the Contracting Parties examined the Treaty constituting the European Coal and Steel Community and its annexed Convention and found that the objectives of the Community were broadly consistent with those of the General Agreement.

In November 1952, the Contracting Parties granted the required waiver authorizing the six governments to eliminate within the Community import and export duties and quantitative restrictions on the products covered by the Treaty. During the five years of the transition period provided in the Convention the Contracting Parties are concerned to see, first, that the single market is operating consistently with the conditions laid down in the waiver and, secondly, that the tariffs and restrictions imposed by the six governments on imported coal and steel from other contracting parties are made no more restrictive than those in force when the waiver was granted.

At their Eighth Session and Ninth Session the Contracting Parties examined the first two reports from the six member countries of the Community with great care, in view of the assurances of these countries that they would follow a liberal policy and take account of the interests of their countries both as consumers and suppliers of coal and steel products, and stressed in particular the risk of export price arrangements among producers which would be unfair to countries outside the Community.

The Reduction of Administrative Barriers to Trade

For the past four years the Contracting Parties have been tackling customs formalities and various administrative barriers to trade, stage by stage. In 1950 they drew up a code of standard practices for the administration, by governments, of imports and export restrictions and exchange controls. In 1952 they adopted a code of standard practices for documents which are required for importation and they made several recommendations which envisage the elimination of consular visas and formalities as soon as possible. They also
drew up and opened for signature (in February 1953) the International Convention to Facilitate the Importation of Samples and Advertising Material the broad purpose of which is to minimize the costs and reduce the formalities and delays which traders and merchants have to face in sending samples and advertising material from one country to another.

The Contracting Parties have also initiated studies on Valuation and Nationality of Imported Goods, and on Discrimination in Transport Insurance, and will continue these studies in the future.

Special Problems

Arrangements for Japan to accede

In July 1952 Japan, which is the most important trading nation that has not yet acceded to the GATT, applied to be allowed to accede in the normal way, that is, through tariff negotiations under the terms of Article XXXIII. The Contracting Parties were faced with the difficulty that, at that time, a number of important trading countries were reconsidering their commercial policy and were not in a position to proceed with tariff negotiations. The difficulty was met through the adoption of a decision at the Eighth Session in 1954 which allowed Japan to participate in the Sessions of the Contracting Parties and their subsidiary bodies. At the same time a Declaration was drawn up, to the effect that, pending the accession of Japan following tariff negotiations, the commercial relations between any country signing the Declaration and Japan would be governed by the provisions of the GATT. Some twenty-three GATT members signed this Declaration. At the Ninth Session, however, the majority of delegations supported Japan's request to enter into tariff negotiations. These were opened in February 1955 at Geneva and will be completed in June 1955, thus enabling Japan to accede without further delay.

Waivers granted to the United Kingdom

The United Kingdom is one of the countries which has preferential arrangements with certain other countries, namely the Commonwealth countries and dependent territories. Under these arrangements the United Kingdom
follows a traditional policy, reflected in its tariff legislation, of according duty-free entry to most imports from the Commonwealth. GATT Article I recognizes existing preferential arrangements in respect of import duties but does not permit the "margin of preference" (i.e. the difference between the most-favoured-nation rate of duty and the preferential rate) to be increased.

At the Eighth Session the United Kingdom applied for a waiver which would enable her to increase the protective tariff on goods not bound under the GATT, while maintaining duty-free entry for these same goods when imported from the Commonwealth, thereby increasing the margins of preference. A waiver was granted which enabled the United Kingdom to increase unbound duties without being obliged at the same time to impose duties on Commonwealth goods, on two conditions. First, if the effect of not putting a duty on Commonwealth goods would lead to a substantial diversion of trade from foreign to Commonwealth suppliers, the waiver does not apply. Secondly, the waiver only applies to goods traditionally imported duty-free from the Commonwealth. As a result of obtaining the waiver the United Kingdom raised its customs duties on a number of horticultural items in November 1953 and at the same time removed some of its quota restrictions on imports of these products. At the Ninth Session the United Kingdom obtained a waiver from GATT obligations to help the marketing of colonial produce in the mother country. This waiver provides that, subject to the prior concurrence of the contracting parties in each case, the United Kingdom government can grant increases in preferences for the exclusive benefit of colonial products which are dependent on the United Kingdom market.
Thirty-Five Contracting Parties to the General Agreement

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Chairman of the Contracting Parties ............Mr. L. Dana Wilgress (Canada)
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