The following procedures for Tariff Negotiations are contained in Basic Instruments and Selected Documents, Vol. I (page 105 to 118). As this volume is now out of print these procedures are reproduced hereunder for the use of contracting parties.

A. PROCEDURES ADOPTED FOR TORQUAY TARIFF CONFERENCE

I. Scope of the Negotiations

1. It is intended that the countries participating in the negotiations in 1950 will propose for negotiation those of their products of which they individually, or collectively, are, or are likely to be, the principal suppliers to the countries from which the concessions are asked. This will apply to negotiations between contracting parties and, in the case of a new acceding government, the latter will be expected to consider the grant of concessions, as a general rule, on products of which any participating country or any group of participating countries, is, or is likely to be, the principal supplier. And a contracting party will, as a general rule, be expected to consider the grant of concessions on products of which any acceding country by itself or together with other participating countries, constitutes, or is likely to constitute, the principal source of supply.

2. The Havana Charter provides that, 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 in Article 17. The relevant provisions are contained in Articles 16 (including the Annexes thereto), 18, 19 and 31. Accordingly, requests may be submitted for concessions in respect of matters covered by these provisions in the same way as requests for tariff concessions.

II. Methods of Negotiation

3. The negotiations will be conducted in accordance with the rules set forth in paragraph 2 of Article 17 of the Havana Charter, 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 the acceding governments in their negotiations with contracting parties is the indirect benefit they are enjoying as a result of the concessions exchanged by the latter at Geneva and Annecy. It will be expected, therefore, that, in granting tariff concessions, acceding governments will take into consideration these indirect benefits and those which will result from new negotiations among contracting parties. Similarly, all the participating governments will be expected to take into consideration the indirect benefits which they will receive from the negotiations between the acceding governments themselves and between them and the 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 Havana Charter 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 15 November 1949.
6. In exceptional cases, a country may find that a general revision of its tariff prior to the negotiations is unavoidable. In making any such revision, the country 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 country which has introduced the new tariff, the effects of such change or such revision would be a matter for consultation between the acceding country and the other participating countries, acting jointly, in order to determine first, the change, if any, in the incidence of the duties of the country 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 28 September 1950.

III. Time-table for the Negotiations

7. At the earliest possible date and in no case later than 22 November 1949, each participating government will send to each other participating government and to the secretariat 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 post-war years. In addition, it is requested that every effort should be made to supply average import statistics for 1936 to 1933 or, if this is not possible, statistics for 1936, 1937 and 1938, or if neither of these is possible, statistics for the most representative pre-war year. Governments which participated in the Geneva and/or Annecy negotiations will not be expected to supply copies to governments to which they were supplied on those previous occasions, but they will be expected to supply details of subsequent tariff changes and copies of any more recent trade statistics that may be available. In cases where transmission by surface post would occupy more than one week, the documents should be despatched by air mail. Each participating government will advise the other participating governments 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. Not later than 15 January 1950, each participating government will transmit, by the most expeditious means available, to each other participating government with which it wishes to negotiate, a list of the products on which it intends to request concessions. Sixty copies of each list will be sent simultaneously to the secretariat for distribution to the other participating governments. In order to facilitate preparations for the negotiations, it is important that the date of 15 January be adhered to. The United States Government is required by its statutory procedure to give public notice of all items in its tariff which are to be the subject of negotiations, and therefore it will not be possible for that government to enter into negotiations on any products which are not included in these lists. A similar situation may exist for certain other governments and therefore items not included in these lists may be excluded from the negotiations.

10. Not later than 15 June 1950 each government will transmit to each other participating government a final list of the tariff and other concessions which it requests from that government. Sixty copies of each list will be sent simultaneously to the secretariat for distribution to the other participating governments. It is strongly recommended that all countries send their lists as early as possible in advance of 15 June 1950.

11. On 28 September 1950 — that is, on the first day of the meeting in Torquay — each government should be ready to make known the concessions it is prepared to offer to each government from which a request for concessions is received. These offers should include an indication of the existing and of the proposed rate of duty on each item. When the offers have been exchanged, negotiations between pairs of delegations will begin.

12. It will be understood that any two participating governments may arrange between themselves to conduct bilateral talks in advance of the multilateral negotiations in Torquay. 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 28 September 1950, the results will be reported at the opening of the Torquay meeting.

IV. Arrangements for the Conduct of Negotiations

13. In accordance with the successful procedure adopted at Geneva in 1947 and at Annecy in 1949, a "Tariff Negotiations Working Party" will be established at the opening of the conference. 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. Each participating government will prepare for distribution through the secretariat a consolidated list of the concessions it has granted and a supplementary list showing the country or countries with which each concession was initially negotiated.

15. When all the negotiations are completed, the accession of governments, not previously contracting parties, will be effected by appropriate instruments. The concessions granted will thereby be incorporated in the Agreement.
B. PROCEDURES GOVERNING NEGOTIATIONS FOR ADOPTION

I. Procedures

1. The secretariat, on receiving a communication from a government not part of the General Agreement which wishes to enter into negotiations with contracting parties with a view to acceding to the Agreement, would notify the contracting parties by cable, together with an indication of the contracting parties with which the requesting government intends to enter into such negotiations. On receipt of such a communication each contracting party would be expected to advise within thirty days, or within sixty days should any contracting party so request, whether

   (a) it had any objections to that government entering into negotiations under these procedures with a view to accesion,

   (b) in the event of negotiations taking place, it would wish to participate.

2. If three or more contracting parties advise that they object under paragraph 1(a), the request would be referred to the next session of the CONTRACTING PARTIES. However, in a case of urgent necessity, a special session of the CONTRACTING PARTIES could be called, in accordance with the Rules of Procedure, at the request of any contracting party which had advised its desire to enter into negotiations with that government.

3. Unless objections were so raised by three or more contracting parties, the Secretariat would consult with the participating governments (i.e., the requesting government and the participating contracting parties) to determine

   (a) the site for the negotiations;

   (b) the date on which the lists of requests should be exchanged;

   (c) the date of entering into negotiations.

As far as possible in advance of the date it is proposed to enter into negotiations, participating governments should submit fifty copies of their request lists to the secretariat for circulation to other contracting parties.

4. The participating governments could set up a Tariff Negotiations Committee to render assistance on questions of procedure and other matters connected with the conduct of the negotiations.

5. The negotiations would be conducted in accordance with the rules and principles laid down in Section II of the Procedures adopted for the Torquay Tariff Conference,¹ subject to such modifications in these rules and principles as may hereafter be made by the CONTRACTING PARTIES.

¹ See above, page 1 et seq.
6. A draft protocol of accession, with the schedules of tariff concessions annexed, and a draft decision under Article XXXIII relating to the accession of the government not party to the General Agreement would be submitted to the next session of the CONTRACTING PARTIES for approval. However, in the event that a substantial period would elapse between the conclusion of the negotiations and the next session, and on the request of the participating governments, the secretariat would circulate a protocol and a decision containing the provisions of the model protocol and decision (see below). Provided favourable votes on the decision are received from two-thirds of the contracting parties as required by Article XXXIII of the General Agreement the Protocol would be opened for signature.

II. Model Protocol

Protocol of Terms of Accession of [the name of the acceding country] to the General Agreement on Tariffs and Trade

The "Model" Protocol contained in BISD, page 111/114 is not being reproduced as a more up-to-date version can be found in the Protocol of Accession of Japan.

III. Decision

Decision by the CONTRACTING PARTIES agreeing to the accession of [the name of the acceding country] to the General Agreement on Tariffs and Trade

THE CONTRACTING PARTIES,

HAVING REGARD to the results of the negotiations directed toward the accession of [the name of the acceding country] to the General Agreement on Tariffs and Trade,

DECIDE in accordance with Article XXXIII of the General Agreement.

1. The CONTRACTING PARTIES agree to the accession of the Government of [the name of the acceding country] to the General Agreement on the terms which are provided for in the relevant Protocol of Terms of Accession of [the name of the acceding country] to the General Agreement.

2. Votes by contracting parties on this Decision must be received by the Chairman of the CONTRACTING PARTIES at Geneva by [two months following the date of the Protocol].

3. This Decision shall constitute a decision of the CONTRACTING PARTIES taken on [two months following the date of the Protocol], provided that by that date favourable votes thereon shall have been received from two-thirds of the governments which are at that time contracting parties.
C. PROCEDURES FOR NEGOTIATIONS BETWEEN TWO OR MORE CONTRACTING PARTIES

I. Procedures

1. Contracting parties wishing to enter into negotiations with a view to the incorporation of the results of such negotiations into the General Agreement on Tariffs and Trade would notify the secretariat which would pass on the information to all other contracting parties by cable.

2. At least thirty days in advance of the date it is proposed to enter into negotiations, the parties originally proposing these negotiations would advise the secretariat of their intentions as to the date and place of the proposed negotiations and submit fifty copies of request lists. This information as well as the request lists would be circulated by the secretariat to other contracting parties.

3. A contracting party which considered that it had a substantial interest in the negotiations and therefore wished to negotiate with one or more of the parties which originally proposed negotiations, should, within thirty days from the day of the circulation of the lists, propose such negotiations to the government or governments concerned and, at the same time, notify the secretariat. The participating governments may invite other contracting parties which they consider to have a substantial interest in the negotiations to participate therein.

4. If supplementary negotiations are to take place the contracting parties, through the secretariat, should be notified and supplied with request lists. Such supplementary negotiations should where practicable take place at the same time and place as the negotiations originally proposed; however, if such an arrangement is not convenient, other arrangements could be made by agreement between the governments concerned. The secretariat should be kept informed of such alternative arrangements.

5. The negotiations would be conducted in accordance with the relevant rules and principles laid down in Section II of the Procedures adopted for the Torquay Tariff Conference, subject to such modifications in these rules and principles as may hereafter be made by the CONTRACTING PARTIES.

6. In the exceptional case where a number of contracting parties were involved in negotiations at a single centre, the participating governments could set up a Tariff Negotiations Committee to render assistance on questions of procedure and other matters connected with the conduct of the negotiations.

7. The participating governments would promptly communicate the results of the negotiations to the secretariat, which would circulate them to all contracting parties. The results of the negotiations would be put into effect

---

1 See above, page 1 et seq.

2 In order to place on record with which of the participating contracting parties the concessions in question were initially negotiated, the participating governments will also furnish to the secretariat the final list of offers exchanged.
as agreed by the participating governments, and in accordance with the provisions of the model protocol (see below) which also provides for the incorporation of the results into the General Agreement. Upon the entry into force of a schedule annexed to the Protocol, in accordance with the provisions of the Protocol concerned, that schedule shall be regarded by the CONTRACTING PARTIES as a schedule to the General Agreement relating to the negotiating contracting party in question. Should it be considered, in any case, that use of the model protocol would be inappropriate, the incorporation of the results of the negotiations into the General Agreement would be taken up at the following session of the CONTRACTING PARTIES.

II. Model Protocol

Protocol of Supplementary Concessions to General Agreement on Tariffs and Trade

The "Model" Protocol is not reproduced as more up-to-date versions can be found in the Sixth, Seventh and Eighth Protocols of Supplementary Concessions.