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GATT IN ACTION

THIRD REPORT ON THE OPERATION OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE

January 1952

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The previous reports in the series were entitled The Attack on Trade Barriers and Liberating World Trade.

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The following thirty-four Governments are contracting parties to the General Agreement on Tariffs and Trade:
Australia, Austria, Belgium, Brazil, Burma, Canada, Ceylon, Chile, Cuba, Czechoslovakia, Denmark, Dominican Republic, Federal Republic of Germany, Finland, France, Greece, Haiti, India, Indonesia, Italy, Liberia, Luxemburg, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Peru, Southern Rhodesia, Sweden, Turkey, Union of South Africa, United Kingdom and United States. The Governments of the Republic of Korea and the Philippine Republic participated in the tariff negotiations at Torquay and are expected to accede to the Agreement by May 1952; it is also expected that the Government of Uruguay, which participated in the Annecy and Torquay negotiations, will become a contracting party by that time.

Throughout this report the expression "Contracting Parties" is written with capitals "C" and "P" when used in the collective sense of the contracting parties acting jointly.
FOREWORD

The General Agreement on Tariffs and Trade has now been in force for four years. When the Agreement was brought into operation in 1948 it was being applied, under the Protocol of Provisional Application, by eight governments; in the language of the Agreement eight governments had become contracting parties. By July 1948 the number of contracting parties had increased to twenty-two. Today thirty-four countries are contracting parties and by May 1952 there may be thirty-seven.

The tariff negotiations held in Geneva in 1947 were succeeded by those of Annecy in 1949 and by those of Torquay which were completed in April 1951. The tariff rates on a high proportion of the trade of countries which are responsible for more than four-fifths of the world's imports and exports have been stabilized at the levels resulting from these negotiations. In these four years the Contracting Parties to the General Agreement, meeting together as provided for in the Agreement to give effect to those provisions which involve joint action, have held six regular sessions and one special session. The seventh regular session will be held in the summer of 1952.

Throughout the first three years that the Agreement was in operation, it was expected that the Havana Charter for an International Trade Organization would enter into force, superseding the general commercial policy provisions of the Agreement and providing an organization of broad competence in the field of international trade and economic affairs. Towards the end of 1950 this expectation was falsified and the proposed International Trade Organization was laid aside, at least for the time being. In these circumstances it was logical and appropriate for the Contracting Parties to review the experience gained hitherto in the working of the Agreement so as to see what might be done to improve and strengthen the arrangements for its administration, for arrangements which were suitable when the ground was being prepared for an international trade organization might no longer be adequate. The Contracting Parties made this review at the Fifth and Sixth Sessions but came to the conclusion that it would be premature to make any radical changes in their administrative arrangements. But meanwhile they have adopted procedural arrangements to deal with urgent problems arising at times when the Contracting Parties are not in session.

This third progress report brings up to date the story of the operation of the General Agreement which was related in the two previous pamphlets in this series, namely The Attack on Trade Barriers and Liberating World Trade.
In response to many requests an outline of the provisions of the Agreement appears as an annex to this report. "Anyone who reads GATT is liable to have his sanity impaired", a Senator of the United States declared recently. I trust that this outline will help to avoid this unhappy conclusion. But no one knows better than those who have assisted in the administration of the Agreement that there is no short cut to an understanding of its provisions. I hope that this outline, despite the technicality of its language, will be of service to those who take an interest in the General Agreement and in the problems with which it is concerned.

E. WYNDHAM WHITE
Executive Secretary,
Interim Commission for the
International Trade Organization.

Geneva,
January 1952.
SOME RECENT ACHIEVEMENTS

Of all the varied questions with which the Contracting Parties have dealt since the General Agreement came into operation, there are three which command positions of special prominence. These are the negotiations for the reduction of customs tariffs, the settlement of differences between contracting parties arising out of their obligations under the Agreement, and the problems of quantitative import restrictions maintained on balance-of-payment grounds. This chapter surveys the recent achievements of the Agreement in these three fields and in addition describes work done by the Contracting Parties in formulating codes of behaviour and in drafting international conventions for the promotion of trade.

The Results of Torquay

The first round in the series of tariff negotiations under the General Agreement was held at Geneva in 1947 when 23 countries negotiated among themselves to reduce rates of customs duties and drew up the General Agreement to put into effect the results of the negotiations and to provide rules governing other aspects of their trade relations. It was always intended that other countries which were prepared to negotiate concessions in their tariffs should be able to accede to the Agreement and receive its benefits. Accordingly a second tariff conference on a smaller scale was held at Annecy in 1949, resulting in the accession of a further group of nine countries. The Torquay negotiations followed the same pattern, except that in addition to negotiations between the contracting parties and the six acceding governments there were also renewed negotiations among the contracting parties themselves for additional concessions. In all, some 8,700 concessions were negotiated at Torquay, compared with 5,000 negotiated at Annecy.

In addition to negotiating new concessions all the contracting parties, except Brazil and Nicaragua, have renewed for a further period the firm validity of the concessions exchanged at Geneva and Annecy. The reductions and bindings in the rates of customs duties which were negotiated in 1947 and 1949 had an assured life only to January 1, 1951; thereafter any contracting party could initiate negotiations with the other countries principally interested for the withdrawal or modification of the concessions which it had made in its tariff. If the Geneva and Annecy concessions had remained liable to widespread modification or withdrawal the stability of world tariff levels — one of the main benefits afforded by the Agreement — would have been imperilled. To avoid this danger the Contracting Parties decided that any re-negotiations of the 1947 and 1949 concessions which governments felt obliged to undertake should be carried out at Torquay and that the assured life of the resulting schedules should be extended for another three years. Such modifications as were made to the existing schedules were in almost every case agreed to, after negotiations under Article XXVIII of the Agreement, by the countries principally interested and were balanced, in accordance with the terms of Article XXVIII, by compensatory concessions to those countries on other products. In no case was
there recourse to retaliatory withdrawals. This "rebinding" of the Geneva and Annecy concessions, when added to the new concessions negotiated at Torquay, stabilizes more than 55,000 tariff rates, covering a very large part of world trade, until 1954.

The results of Torquay are a solid achievement. The reduction of customs duties, the binding of reduced rates for a substantial period and the generalization of the resulting tariffs for all contracting parties will combine to serve as a valuable force for promoting and expanding world trade. The reduction and stabilization of import duties through the General Agreement have done much to remove a source of great uncertainty for the trading community.

The cumulative effect of the three postwar tariff conferences will permit an expanding volume of trade at a more moderate level of customs duties, particularly when quantitative restrictions on imports are removed. For example the removal by Canada of all import restrictions which were imposed for balance-of-payment reasons has enabled the reduction and bindings of her customs duties to have their full effect. The partial liberalization of trade among the countries belonging to the Organization for European Economic Cooperation has also enhanced the importance of the lowering and binding of tariffs. Further, the three rounds of negotiations under the Agreement have resulted in significant reductions in the United States tariff and have thus helped to correct the maladjustment in the balance of payments between the dollar and other currency areas by giving the non-dollar countries a better chance to sell their products in the United States market.

Difficulties encountered at Torquay

Notwithstanding this measure of success, the results of Torquay were not as broad or as extensive as some had hoped when the Conference was first decided upon in November 1949. Some had expected better results than the circumstances warranted. The Torquay negotiations took place under conditions of much greater stress than those which prevailed at the time of the Geneva or Annecy Conferences. Besides, those earlier negotiations had covered much of the ground, and many of the countries participating at Torquay felt that they had largely exhausted their bargaining power or that they had gone as far as was justified in the process of tariff reduction in view of present-day uncertainties. They felt they needed more time to digest and to assess the effects of the concessions already made, before making further cuts in their tariffs.

The fact that certain of the more important negotiations initiated between existing contracting parties did not result in agreements inevitably had some reactions on other negotiations. If, for example, the other countries engaged in tariff negotiations at Torquay had been sure that substantial concessions were going to be exchanged between the United Kingdom, Australia and New Zealand on the one hand, and the United States on the other, they might have been prepared, in the light of the benefits which they would have enjoyed from the
automatic extension of these concessions to them, to go somewhat further in reducing their own tariffs. Substantial cuts in the tariffs of these Commonwealth countries, however, would inevitably have involved substantial reductions in some of the margins of preference which they accord to one another and the Commonwealth negotiators were not prepared to agree to major tariff concessions of this kind at the price which the United States negotiators were prepared to offer in return.

Another inhibiting factor was the problem presented by the disparities in the levels of tariffs. A number of European countries with a comparatively low level of tariff rates considered that they had entered the Torquay negotiations at a disadvantage. Having bound many of their rates of duty in 1947 and 1949, what could these low-tariff countries offer at Torquay in order to obtain further concessions from the countries with higher levels of tariffs? The rules adopted by the Contracting Parties for their negotiations stipulate that the binding of a low duty or of duty-free treatment is to be recognized as a concession equivalent in value to the substantial reduction of high tariffs or the elimination of tariff preferences. Some thought that, in observance of this rule, the high-tariff countries should make further reductions in their duties in exchange for the prolongation of the binding of low duties. But although the high-tariff countries were sometimes willing to offer concessions without expecting comparable reductions from countries with low tariffs, they were not prepared to grant what they considered to be unilateral and unrequited concessions. No general solution was found at Torquay, but the question will be further explored in the near future. Meanwhile, the area of negotiation between some of the European countries was restricted by this divergence of view.

There is another aspect of the question raised by the low-tariff countries in the discussions at Torquay. Many of them, as members of the Organization for European Economic Cooperation, were committed to the removal by stages of their quantitative restrictions on intra-European trade. At meetings of the Organization in Paris it was said that with the removal of quantitative restrictions customs duties would assume greater importance, and that if many of the tariffs of Europe remained at their existing high levels the liberalization programme would be in jeopardy. It was also said that the persistence of inequalities in the level of tariffs was an obstacle to the integration of the European economy and to the removal of other barriers to intra-European trade, which were among the objectives of the Economic Cooperation Act, passed by the United States Congress in 1948, and of the Convention for European Economic Cooperation. Certain countries wished to qualify their acceptance of the programme of trade liberalization by making it conditional upon the successful outcome of the Torquay Conference, and the Organization resolved that there should be some provision for modifying the programme if the Conference did not result in concessions in respect of tariffs affecting intra-European trade.

As a result of discussions which were held at Torquay, nine members of the OEEC and the United States concluded that although the reductions achieved in the Torquay negotiations, when added to the results achieved at Geneva and
Annecy, would make an important contribution to the reduction of European tariff barriers, they would not be a sufficient contribution to the creation of a single market in Europe. These countries thought that much more could be achieved in removing the disparities in tariff levels. Accordingly the Contracting Parties convened a special session at which a committee was appointed to consider proposals for multilateral or other procedures which might help towards levelling the disparities in European tariff rates and to recommend how such proposals might be fitted into the framework of the Agreement. This committee was also asked to consider whether the negotiating procedures of past conferences could be adjusted so as to improve the opportunities of low-tariff countries to negotiate for reduction of the relatively high rates maintained by others. This latter term of reference recognises that, in addition to the immediate European question, there is a general problem which makes it desirable to re-examine the negotiating procedure and techniques in the light of the experience gained in Geneva, Annecy and Torquay.

The Prospect for further Tariff Negotiations

Are the Contracting Parties likely to arrange further rounds of tariff negotiations with a view to extending the scope of the Agreement through the accession of other countries or for making further tariff reductions? Under the General Agreement contracting parties are not obliged to negotiate at intervals for tariff concessions; the Agreement simply gives legal effect to what is agreed upon when such negotiations have taken place. Contracting parties are of course competent to decide to negotiate among themselves whenever they so desire, but it seems unlikely that further large-scale negotiations will take place in the next year or two. From time to time governments may wish to obtain new or increased concessions on products of which they are important suppliers and will be willing to offer advantages in their own markets in exchange. In addition, there may be applicants seeking admission to the Agreement and willing to negotiate reductions in their tariffs in order to obtain by contractual rights the concessions contained in the schedules to the Agreement, instead of relying solely on such rights as they may have as a result of bilateral most-favoured-nation arrangements.

At their Sixth Session the Contracting Parties elaborated detailed procedures for the conduct of tariff negotiations at times other than during general tariff conferences: first, for negotiations between contracting parties and a government wishing to accede to the General Agreement and secondly, for negotiations between two or more contracting parties wishing to exchange additional tariff concessions with a view to incorporating the results of their negotiations into the General Agreement. The procedures and the rules adopted for such negotiations are based on the procedures and practices followed at the Geneva, Annecy and Torquay Tariff Conferences. These procedures have been simplified while maintaining as much as possible of their multilateral character which is the distinguishing feature of tariff negotiations undertaken within the General Agreement.
The Settlement of Differences

The hearing of complaints and differences of view or interpretation is one of the most important functions performed by the Contracting Parties at their regular sessions. On all matters affecting the operation of the Agreement contracting parties are required to afford opportunities for consultation. If a contracting party 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 as a result of special circumstances, representations may be made to the contracting party concerned; and if no satisfactory adjustment is effected the question may be referred to the Contracting Parties who are required to investigate the matter promptly and to make recommendations or give rulings. The "special circumstances" may be the failure of another contracting party to carry out its obligations under the Agreement, the application by another contracting party of any measure, whether or not it conflicts with the Agreement, or the existence of any other situation. The Contracting Parties, if the circumstances appear to justify such action, may authorize a contracting party to suspend the application of certain obligations or concessions under the Agreement, and if this action is taken the other contracting party will be free to withdraw from the Agreement.

These provisions for consultation and for the settlement of differences are essential to the operation of the Agreement. Since contracting parties are not required to report on the outcome of consultations it is not known how many questions are settled in this manner. Probably many differences between contracting parties are settled through diplomatic channels - in the wings so to speak - and only those which cannot be settled in this way are brought on to the stage.

The agenda of the six sessions have contained a number of items representing the questions raised by contracting parties concerning the actions, or failure to act, of others. In each case, which a contracting party has placed upon the agenda, consultation has already taken place but has failed to produce an acceptable settlement. But even at this point consultations have frequently continued and before the question has come up for discussion a settlement has been reached. Possibly the pending review by the Contracting Parties has provided an added inducement to the parties to make every effort to reach agreement among themselves. More often, however, the difference has been discussed in full session. Sometimes a working party has been appointed to examine the case in detail, to consider the bearing of the Agreement upon the case and to propose a basis for settlement for consideration by the Contracting Parties. Complaints which have led to this type of action include:

- that consular fees on import documents were levied at a higher rate on goods imported from some contracting parties than on goods from others,

- that a contracting party practised a discrimination in export control which could not be justified under any provision of the Agreement,
- that imports of dairy products had been restricted in contravention of the provisions of the Agreement,
- that a system of internal taxes bearing an element of discrimination against imported products had been modified in a manner which increased the discrimination in favour of domestic products,
- that a system of purchase tax was applied to imported goods of a kind which, when produced domestically, were exempt from tax,
- that excise duties, from which exported goods were normally exempt, were levied on exports to one of the contracting parties,
- that exemption from a special tax had been granted for imports on governmental account from some contracting parties while being refused for imports from others which could equally qualify for exemption,
- that a subsidy which had been granted to two competing imported fertilisers had been modified so as to benefit only one of them, thus impairing a benefit which the country supplying the other had expected to obtain,
- that a contracting party had resorted without sufficient justification to an escape clause of the Agreement, which allows emergency action on imports of particular products, in order to withdraw a negotiated commitment on the customs duty applicable to imports of certain millinery products,
- that a contracting party had failed to honour a negotiated commitment when it reduced the most-favoured-nation rate on a tariff item on which it had bound a preferential rate.

Most of these differences have been disposed of by the Contracting Parties; some were rejected, while others were sustained and remedial action taken by the contracting parties concerned. A few others, including some of the most important, are still outstanding; the governments concerned have been given time to redress the situation and they have given assurances that they are taking steps to this end. The differences not yet finally disposed of represent serious tests for the General Agreement.

In their treatment of differences the Contracting Parties are building up a body of case law which will serve in the continuing administration and interpretation of the Agreement. As a board to which differences can be referred, the Contracting Parties have now acquired prestige and have established a reputation for fair and impartial judgment commanding the loyalty and respect of the individual contracting parties.
Taking Stock of Quantitative Restrictions

The report on the operation of the General Agreement, entitled Liberating World Trade, which was published in 1950 was mainly concerned with examining the use of quantitative trade restrictions.\(^1\) That report described the exceptions which are allowed under the Agreement to the general rule for the elimination of quantitative restrictions and the principles governing the non-discriminatory application of those restrictions which may be imposed. It also examined the obstacles to the removal of restrictions of a temporary character. On this occasion a page or two must be given to the problem of quantitative restrictions so as to bring the story up to date and to indicate the way in which the Contracting Parties will have to deal with it in 1952.

Contracting parties which intensify the restrictions which they maintain to safeguard their external financial position and balance of payments are required to consult with the Contracting Parties. At the Fifth Session at Torquay the first such consultations were undertaken with seven sterling area countries - Australia, Ceylon, India, New Zealand, Pakistan, Southern Rhodesia and the United Kingdom - which had reduced their hard-currency imports in view of the sharp deterioration in the sterling area's dollar balance of payments during the summer of 1949. Several hard-currency countries contended that the time had come when these countries, other than India and Pakistan, might begin a cautious but progressive relaxation of these restrictions. On the other hand, the countries concerned were of the opinion that that view took insufficient account of certain adverse factors which would not have their full effect until 1951, including in particular their responsibilities for rearmament; therefore, although the gold and dollar reserves of the sterling area had improved, they felt strongly that it would not be wise to relax the restrictions at that juncture. The Contracting Parties also consulted with Chile, whose restrictions had also been intensified, but expressed the view that, as with India and Pakistan, no relaxation was feasible in the circumstances prevailing at that time.

Other problems arising from the maintenance of quantitative restrictions in general were also discussed at the Fifth Session. The Contracting Parties recognized that so long as restrictions had to be retained efforts should be made to improve their administration so as to reduce the uncertainties and hardships, delays and losses, which result from the changing and unpredictable operation of trade controls. As a result of these discussions the Contracting Parties adopted a Code of Standard Practices for the administration of import and export restrictions and exchange controls and recommended that governments should review their present practices and if possible improve them in line with these standards.

\(^1\) Two other reports, arising from the examination of quantitative restrictions at the Fourth Session of the Contracting Parties, were also published in 1950, namely: First Report on the Discriminatory Application of Import Restrictions and The Use of Quantitative Restrictions for Protective and other Commercial Purposes (Sales Nos. GATT/1950-1 and 3 respectively).
The use of quantitative restrictions for balance-of-payment reasons in the postwar years has persisted far longer than was expected when the General Agreement was drawn up, and their removal is still not in sight. However, 1951 was the year specified in the Agreement for a review of these restrictions by the Contracting Parties and this review was undertaken at their Sixth Session in September-October 1951. The Contracting Parties examined the various methods of limiting imports, the techniques employed in the practice of discrimination, the recent changes in the restrictive policies of various governments and the intended and incidental effects of the restrictions. In this review the individual governments imposing the restrictions were not called upon to justify their action; the purpose was simply to take stock of the restrictions in force and to see to what extent the recent changes in the general political and economic situation were reacting upon the scope and administration of the trade controls. In their report the Contracting Parties noted that many of the factors arising from the international situation - principal among these were increased demand and higher prices for certain materials and other essential supplies caused particularly by speculative buying, private and governmental stock-piling, the increasing re-armament programmes and the threat of new inflationary pressure - affected the position of the different countries in different ways. Generally speaking, by the middle of 1950 there had been a widespread improvement in the external financial position of many countries. This improvement, coupled with the desire to acquire essential supplies, had given rise to a tendency to permit, or even to seek, an increase in the volume of imports. This tendency continued in 1951. For certain important countries, however, the effect of the increased demand and higher prices since the middle of 1950 on their balances of payments was such that they were experiencing difficulties. The report found that the governments applying import restrictions under Article XII were conscious that the obligation which each had assumed under the Agreement implied the need to keep their restrictive and discriminatory practices under frequent review and to remove any measure which was not strictly justifiable on balance-of-payment grounds. Having surveyed the restrictions still in force the Contracting Parties concluded that "countries cannot all move at the same pace, but a number, particularly those whose trade and payments position is improving as a result of recent developments, should be able to take definite steps towards the further relaxation of the restrictions and the reduction of discrimination".

1 The Use of Quantitative Import Restrictions to Safeguard Balances of Payments (incorporating the Second Annual Report on the Discriminatory Application of Import Restrictions) (Sales No. GATT-1951/2). This Report contains short notes on the principal features of the restrictions applied by individual contracting parties.
In recent months, however, some contracting parties have felt compelled to take fresh measures to safeguard their external financial position. Notably, the United Kingdom Government announced on 7 November 1951 that, in view of the further deterioration of its balance-of-payment and reserve position, imports from many countries in 1952 would have to be substantially below the 1951 levels. The new restrictions were referred to a Committee of the Contracting Parties which considered whether this action constituted an intensification of restrictions such as to require consultations between the Contracting Parties and the United Kingdom under Article XII: 4(b) of the Agreement. The Committee deferred a careful examination of the question of interpretation, in view of the fact that discussions taking place in the OEEC had provided opportunities for talks between the United Kingdom and the European countries principally affected and that the Contracting Parties would in any event be consulting with the United Kingdom on the discriminatory application of its import restrictions under another provision of the Agreement at the Seventh Session. The Committee also took account of the London meeting of Commonwealth countries in January 1952 to consider the balance-of-payment position of the sterling area as a whole, and of the possibility that this meeting might result in the application of new restrictions by other contracting parties in the near future. The Committee agreed that if there should be other cases of a substantial intensification of restrictions by one or more contracting parties, seriously affecting the trade of others, a special meeting of the Committee would be held.

Another important development in the use of quantitative restrictions, which has received the attention of the Contracting Parties, was the action of the Belgian Government in September 1951 in introducing several measures to deal with its growing creditor position in the European Payments Union. One of these measures involved the restriction of imports from the dollar area. This appeared to some contracting parties to be not fully in accordance with Belgium's obligations under the Agreement, and those whose trade was affected indicated that if the restrictions were not removed they might have recourse to their right of redress under the terms of the Agreement. The Contracting Parties decided not to pursue this question immediately in view of the many serious problems which it posed for governments and in any case the possibility remained that the restrictions on dollar imports would be removed in the near future.

In the treatment of restrictions on trade and payments 1952 will be a significant year both for the Contracting Parties to the General Agreement and for the International Monetary Fund. Commencing in 1952 the Fund is required to consult annually with member countries which retain restrictions on payments and transfers for current international transactions under the postwar transitional arrangement contained in the Fund's Articles of Agreement. These consultations by the Fund with its members are closely related to the consultations on the continuance of discrimination in the application of trade restrictions by the Contracting Parties with individual contracting parties which are members of the Fund. A special provision of Article XIV of the Agreement permits most of the contracting parties to discriminate in a manner which has equivalent effect to exchange restrictions which they may apply as members of the Fund. The other
contracting parties are permitted to discriminate under other rules and in accordance with other criteria, and these are required to consult with the Contracting Parties, annually commencing in 1952, on the continuance of discrimination in the application of their trade restrictions. Thus in 1952 there will take place a comprehensive review of the need for exchange restrictions and for the discriminatory application of restrictions on trade. The Contracting Parties, in their consultations with individual governments, will continue to collaborate closely with the Monetary Fund as they have done during the four years since the Agreement came into force.

The Agreement does not expressly require periodical reviews of quantitative restrictions imposed for other than balance-of-payment reasons. Nevertheless, the Contracting Parties decided at their Fifth Session to invite individual contracting parties to submit statements on action which they are taking under various provisions of the Agreement which allow the maintenance of quantitative restrictions as exceptions to the general rule for their elimination. The restrictions which are permitted by the Agreement include those imposed, in certain circumstances, for agricultural protection, those specifically approved by the Contracting Parties to give assistance to economic development or reconstruction, those imposed under Article XIX by way of emergency action on imports of particular products, and those imposed under the general or security exception clauses of the Agreement.

Conventions and Recommendations to facilitate Trade

In several instances the Contracting Parties, as the competent international body to deal with customs tariffs and commercial policy, have been called upon by other international organizations to give advice or assistance. At the request of the United Nations Educational, Scientific and Cultural Organization, they appointed a committee of experts to work out practical measures to reduce barriers to the international movement of educational, scientific and cultural materials. The result was a draft convention which was accepted by UNESCO and opened for signature by governments. Later the Contracting Parties were asked by the World Health Organization to study the feasibility of preparing a similar agreement regarding the importation of pesticides and apparatus and materials necessary for campaigns against harmful insects. A draft agreement was prepared by a committee of experts and has been submitted by WHO to governments for consideration.

The formulation of a Code of Standard Practices for the administration of trade restrictions has been mentioned. At the Sixth Session a number of resolutions adopted by the International Chamber of Commerce relating to the reduction of trade barriers were examined and the Contracting Parties drew up a draft convention for facilitating the importation of commercial samples and advertising material and recommendations on consular formalities and documentary requirements for importation. The draft convention, as well as the recommendations, have been submitted to governments for study, and their comments will be examined at the Seventh Session with a view to further action.
AN APPRAISAL OF THE GENERAL AGREEMENT

The achievements of the Contracting Parties in reducing tariffs and settling differences have been discussed in the preceding chapter. That account together with the earlier reports in this series, namely The Attack on Trade Barriers and Liberating World Trade, helps to assess the value of the Agreement as a contribution to international endeavour, both in trade and in economic cooperation. In several ways the Agreement has broken new ground in international relations.

A new Negotiating Technique

In the four years it has been in operation the Agreement has brought about a far greater stability in customs tariffs than was achieved previously through unilateral and bilateral action. The prolongation of the Geneva and Annecy concessions has introduced a further degree of stability and will ensure that there will be no outbreak of tariff wars at least for the next two years. This represents a great advance compared with the situation which obtained not so long ago when some countries considered that tariffs were matters of purely domestic concern and were reluctant to accept international commitments on rates of duty, while others were not prepared to negotiate tariff reductions or bindings for more than a very short period.

Another important step is the general acceptance of the unconditional most-favoured-nation clause in tariff matters. Any deviation from its obligations must be specifically authorized either in the text of the Agreement or by a decision of the Contracting Parties. This achievement, which involves a substantial change in policy for certain countries, gives stability and equality of treatment to all nations which are prepared to accept an agreed set of rules for the conduct of their commercial policy.

The multilateral procedure for tariff negotiations, by contrast with the traditional methods, has the advantage of enabling participating countries to assess the value of the concessions granted by other countries over and above the direct concessions negotiated. In traditional bilateral negotiations these indirect benefits could not be assessed with any accuracy and were generally disregarded. With the new approach the tendency is to strike a balance, not between direct concessions but between the aggregate of direct and indirect benefits; this enables negotiating countries to go much further in the way of tariff reduction than would otherwise be possible.

The fact that negotiations have been conducted between a number of countries at the same time has led the negotiators to give more thought to the international implications of tariff rates. Although each government remains the sole judge of the appropriateness of the level of its tariffs and is not called upon to grant any tariff concessions unless it is satisfied that the benefits obtained in exchange are of corresponding value, tariffs are more and more considered as being of concern to all members of the group. This was no doubt one reason why the Contracting Parties decided to investigate the possibilities of reducing the disparity in the levels of the West-European tariffs.
Of course multilateral agreements are not altogether new. But those negotiated before the Second World War were limited in scope and provided no machinery for regular consultation on their enforcement. It is true that trade and economic conferences under the aegis of the League of Nations contributed to an understanding of the difficulties common to most national economies. But they did not go far beyond formulating resolutions and recommendations which had no binding force. The General Agreement goes substantially further in the binding character of the obligations assumed by the governments which accept it. By introducing a new negotiating technique the Agreement has made a unique contribution to the stability of tariffs and has reduced their incidence, especially in those countries which traditionally maintain comparatively high protective duties.

The "GATT Club"

The General Agreement has also introduced a new climate. In the activities of the Contracting Parties and in the terms of admission to membership the reader may detect a resemblance to a "club" where the representatives of the member governments meet from time to time to discuss and settle questions of common interest in accordance with agreed rules and in a business-like and friendly atmosphere. To enter this club a government pays an "entrance fee" in the form of tariff concessions and undertakes to observe a comprehensive set of rules, but on becoming a member it acquires the right to many advantages which it has itself judged to be at least equivalent in value. Even if the rules are imperfect the acceptance of limitations on action in matters which for centuries have been considered by governments as falling exclusively within their sovereign rights represents an important step forward. Admittedly the Contracting Parties have no legal power to compel a government to do something which it does not wish to do, but a government which accepts the rules of the Agreement and subsequently digresses from them in defiance of the Contracting Parties may lose the protection and benefits which the Agreement affords. Although the Contracting Parties have no legal means of expulsion, a member would be severely embarrassed if condemned by its associates and might feel compelled to resign if it could not comply with their judgment. The moral authority of the Contracting Parties may well prove more effective than reprisals which are apt to degenerate into economic warfare.

In addition to the defined rules there are now many unwritten rules of conduct which go to make up the tradition of this international group.

Before implementing measures affecting its foreign trade each member government is expected to take into consideration the commercial interests of other members and it should be prepared to engage in consultations with the countries affected or with the Contracting Parties acting jointly. The consultation procedure, which enables governments to hold a frank and full exchange of views in the presence of other contracting parties, has yielded substantial results. As shown in the preceding chapter the Contracting Parties have frequently been invited to act as a conciliation board, examining the facts of a case dispassionately and objectively and making recommendations for an amicable settlement.
Through the operation of the multilateral technique the interests of the governments are closely interwoven so that any measure affecting one of them very often affects all others in some degree. It is natural, therefore, that governments should be more influenced than before by their common interests, since these are less distinguishable from the national interests. This slowly-growing recognition that national interests are better served by maintaining law and order in the international trading community than by hard bargaining on a bilateral basis must contribute to an improvement in international relations. In the discussions of the Contracting Parties the representatives learn about the difficulties of other countries which helps them to assess more accurately their own situation and the ground for their own action.

This feeling of partnership in a great enterprise is evident in the manner in which some provisions of the Agreement have been drafted and implemented. Although the rules of conduct have to be observed equally by all members of the club, some departures can be, and have been, authorized in favour of countries which experience serious difficulties in balancing their external accounts or which are especially sensitive to economic disequilibrium because their economies are relatively less diversified. In a spirit of solidarity the stronger members of the club have agreed that in some circumstances the weaker members may be allowed to use certain protective devices which they have forewarned for themselves. This approach is ahead of official and popular opinion in many countries and can become a permanent feature of international life if governments use the derogations granted in their favour with due restraint and if informed opinion gives full support. It is encouraging to note that a similar philosophy influenced the Organization for European Economic Cooperation when it devised remedial measures for the difficulties experienced by some members of the European Payments Union.

If governments which are in a strong financial situation are prepared, in the interest of all, to make sacrifices in order to speed up the recovery or adjustment of countries which are financially or economically weaker, they naturally expect that these countries will do all that is in their power to accelerate their recovery. This concept of rights and obligations of governments as members of an international community is based on the recognition that the orderly conduct of international relations in the field of trade and economic endeavour is not only a prerequisite for a healthy expansion in the exchange of goods but also a major contribution to an increase in real income and a general improvement in welfare.

Through the regular sessions of the Contracting Parties the Agreement brings together important officials for discussions of the commercial policy problems of the moment. At the close of each session these representatives know they will meet again after a certain lapse of time and, broadly speaking, they are familiar with the kind of questions with which they will then be called upon to deal. Those who attend the sessions, the officials in the capitals who forward instructions to their representatives, and the governments themselves which are ultimately responsible for all decisions, are brought into touch with each other through the General Agreement. Apart from the business on the agenda, these meetings have afforded the national officials an opportunity
for a regular exchange of views on matters of mutual concern and have proved of great practical value in helping to reconcile divergent national policies without the friction and misunderstanding which so often arise when personal contacts are not feasible. The links thus established are gradually forged into permanent relationships which maintain their value in the period between sessions.

The Agreement and current Trade Problems

The achievement of the General Agreement in the field of trade must be considered as modest so far. The exceptional difficulties since the war have delayed the re-establishment of a sound equilibrium in international trade and finance. In 1947-1949 popular and technical discussion centred round currency controls, devaluation and the closing of the dollar gap. By mid-1950 many countries had made substantial progress in redressing their balance of payments and it seemed that the attainment of equilibrium might soon be in sight. There was reason to hope that a beginning could be made in the dismantling of quantitative restrictions on imports. Indeed many governments were able to relax their import controls during 1950. In Europe the members of the Organization for European Economic Cooperation had taken an important step towards restoring convertibility of their currencies by establishing a payments union and were working on an ambitious programme for the progressive removal of quantitative restrictions on private trade among themselves. It was hoped that before long the tariff would resume its traditional rôle as the principal instrument of commercial policy.

The progress which was made up to the middle of 1950 has been jeopardized by the upsurge of new intractable factors resulting from deterioration of the political situation. The war in Korea has altered both official policies and public attitudes. The topics now to the fore in thought and discussion are those which reflect the economic consequences of international tension and rearmament. Export controls have been reimposed and tightened, particularly on raw materials, and government participation in trade has been increased. Growing inflation and the scarcity of materials have radically altered the outlook for world commerce. In these circumstances no government has been prepared to make any fundamental change in its commercial policy, but it is an encouraging sign that a large number of governments have been willing to support the experiment of the General Agreement - an experiment which departs substantially from their traditional commercial policy and includes commitments which could eventually lead to a new phase in international trade.

The world-wide demand for certain raw materials, aggravated by commercial and strategic stockpiling, led to the establishment of the International Materials Conference in which many of the contracting parties to the General Agreement participate. The commodity committees, representing producer and consumer interests, review the available supplies of essential materials and recommend measures for increasing their production and ensuring their effective distribution and use. These measures have led to the introduction of controls over trade in materials for industry; and these may be but the forerunners of further controls on an international scale stemming from other factors such as the economic and financial plans of the North Atlantic Treaty Organization.
These new controls will almost inevitably run counter to the progressive removal of controls on international trade which is one of the principal aims of the General Agreement. But the Agreement recognizes the possible need for such exceptional measures, and lays down the condition of equality of treatment for the international distribution of scarce products. While progress towards the early attainment of the objectives of the Agreement will thus be interrupted, the very existence of its principles and the pursuit of its objectives become all the more important in the long run, because in the absence of limitations these temporary distortions would be even more harmful to trade. Governments will also be able more easily to withdraw emergency measures if these measures are regarded from the beginning as agreed departures from normal rules.

Today the world is facing two major economic problems: a shortage of essential raw materials in industrial countries (and of industrial products, mainly capital equipment, in the less developed countries) and inflation. Some countries are now less interested in the export of their national products and they even restrict or prohibit the export of some materials and semi-processed goods. They are alert to the inflationary influence of a large volume of exports. On the other hand they are anxious to secure essential goods from abroad and are reluctant to abandon unorthodox trading devices which they may be using with some success to secure that supply; and they may wish to increase their imports of specific consumer goods to alleviate an inflationary pressure. In some sectors, governments are now more interested in imports than in exports, and tariff reductions favourable to their export trade may not appear of immediate assistance in solving their major difficulties. But that is not to say that there has been a complete reversal of the trends of international trade; for a large number of products there is the same incentive to promote exports, and for these the advantages of tariff reduction and stability are not affected. Supplies may be obtained more easily from exporting countries if there is some expectation of a permanent market, secured by stable tariff and other import conditions, than if there is serious danger of a future closing of the market through unilateral action by the importing country.

Although the operation of the General Agreement may not appear to be directly helpful in solving these present-day problems, it does seem that the stability of export markets to which the Agreement has contributed will help indirectly by introducing certain long-term factors which would be ignored or overlooked if the General Agreement were not in existence.

Proposals for a new Approach to Tariff Reduction

The special European problem, mentioned earlier, which has led to the appointment of a committee of the Contracting Parties to examine the disparities of tariff levels, is deeply rooted in the individual economic and commercial development of each country. Some countries in Europe have found it advantageous to have low duties, while others see a greater advantage in a policy of high protection. The disparities in tariff levels reflect differences in social and economic structure and the removal of the disparities would involve a correspondingly complex series of questions and, possibly, the development of new techniques.
This European problem presents a challenge to the Contracting Parties to find a solution within the world-wide framework of the Agreement. Indeed the General Agreement suggests several possible courses. One would be the creation of a customs union or a free-trade area, composed of some 10 to 15 countries in Western Europe. This would be feasible within one of the provisions of the Agreement which deals with customs unions and free-trade areas and allows for the necessary temporary departures from the rule of non-discrimination during periods of transition and adjustment. A study group of European countries has been examining for some time the technical problems which would be involved in establishing a common tariff for Western Europe; certain concrete results have been achieved, in particular the standard tariff nomenclature which has already been accepted by several countries and the adoption of a common definition of value for the purpose of assessing goods liable to ad valorem duties. But the difficulties which would be encountered in bringing about a full customs union are well illustrated by the experience of Belgium, Netherlands and Luxemburg in completing the Benelux Union, by the experience of France and Italy, whose customs union agreement still awaits parliamentary ratification, and by the decision of the Scandinavian countries not to proceed at present with the establishment of a common tariff. To establish a uniform customs tariff or an area of free trade in the widely diverse economic structures of the European countries is to face a host of problems of fiscal policy, wage levels, subsidization, investment and so forth. Moreover, it must be again emphasized, the degree of protection afforded differs from one country to another because of the dissimilarities in conditions of production and in the structure of national economies. The disparity in tariff levels is in many instances the result rather than the cause of the differences in conditions of national production, and it is not certain that much more can be achieved in customs reform unless governments decide to embark on extensive schemes for economic integration and for co-ordination of fiscal and wage policies. These would involve far-reaching decisions on national policy by governments.

Another plan at present being considered is a proposal which was put forward by France at the Sixth Session of the Contracting Parties. This calls for a reduction of 30 per cent in the customs tariffs of all countries which would participate, to be brought about possibly over a three-year period by 10 per cent yearly stages. The technical details of this project and possible methods of application are being examined with a view to the submission of a report to the Seventh Session.

In the course of the work of the OEEC a number of schemes have been put forward, conceived on a regional basis and directed towards integration of industry and the promotion of trade. But regional schemes, no matter how desirable they may be in contending with regional difficulties, may well be self-defeating unless they are designed to fit in the broader scheme of the world economy. The process of harmonization and adaptation involved in such schemes when they come to be worked out in practice will test the flexibility and vitality of the General Agreement. For this reason the following section is devoted to the problems which would have to be faced if any of those schemes were put into operation.
Regional Integration and the General Agreement

The general intention of the plans which are being discussed in Europe today is to create a larger continental market, less broken at national frontiers by barriers of tariffs and quantitative restrictions, and to bring about an economic distribution of industry. Several plans have been proposed. Some aim at strengthening European industry and removing barriers to intra-European trade, with the assistance of new financial institutions, by nationalization or by loans to industries which would suffer hardship as a result of the removal of protective measures from which they presently benefit. Others see the most promising line of development in the creation of one-market "communities" embracing whole sectors of production. The Schuman Plan, which has been signed by six countries of Western Europe and awaits ratification by their parliaments, would create a free market for coal and steel in the territories of the signatories. Another plan would set up an agricultural authority for Western Europe in order to establish a unified market. Finally there are schemes which involve the reduction or removal of customs duties among the participating countries thus establishing a large European preference area.

Some of these plans would be incompatible with obligations assumed under the General Agreement, and participation by contracting parties would therefore require a modification of their commitments. The Contracting Parties would then have to steer a difficult course between the rigid application of the rules of the Agreement, with the risk of frustrating what might be a promising initiative for the recovery and strengthening of the European economy and acceptance of regional arrangements which would weaken the basic principle of equality of treatment. The Agreement contains the degree of flexibility necessary for the waiver of obligations, and the exercise of these powers by the Contracting Parties may well be decisive for the future of the Agreement. The first request for special dispensation is likely to be presented by the governments participating in the Schuman Plan; for the acceptance of this Plan would involve certain derogations from the basic rules of the Agreement and if it is to be brought into operation the signatories must seek the necessary waiver of obligations.

It is evident that we have entered upon a period when governments are giving serious consideration to plans for economic integration involving the modification or suspension of commitments under the General Agreement. They may be tempted to neglect contractual obligations. All new regional schemes in Europe or elsewhere will have to be thoroughly examined in the light of the obligations of the contracting parties. New problems require new solutions, and if the General Agreement is to continue as a significant factor in international affairs solutions must be found which will not disturb its essential elements and principles of the Agreement.

Any international agreement is certain to encounter difficulties at times like the present. The importance to be attached to a set of trade principles or to a code of commercial behaviour, at a time of great political uncertainties and preoccupation with the needs of defence, may be questioned, but one should perhaps reflect that a compass and chart are of greater value
in stormy weather than in fair weather. It is fortunate that when governments are seeking new solutions for new problems in their commercial relations and may be driven to ad hoc and emergency measures there should be, in an accepted instrument, a solid basis of agreed principles by which the day-to-day action and policy of governments can be guided and controlled. If the General Agreement serves a useful purpose in time of calm and normalcy, it is doubly valuable in the period of strains and stresses through which the world is now passing.

Collaboration in broader Fields

At this point it will be of interest to assess the value of the Agreement in other fields of economic endeavour and in collaboration with other international organizations. For in the long run international collaboration in trade has a direct bearing on activities in other spheres of economic cooperation.

The expansion of foreign trade is not an end in itself, and the contracting parties, when they accepted the Agreement, made it clear that their efforts were directed towards a wider economic objective. The Preamble to the Agreement reads:

"...Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods,

"Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international commerce ...."

Thus, the purpose of tariff reduction and elimination of other barriers is not simply to expand the exchange of goods. The other objectives, such as the improvement of living standards, the maintenance of full employment and the development of resources appear to some to be paramount and the success of the effort in the trade field will be assessed in terms of an increase in real income and effective demand. To what extent, therefore, are the motives behind protective measures compatible with the aim of improving real income? Will the reduction of trade barriers help to attain this objective?

The reduction of tariffs and the elimination of quantitative import restrictions will generally have a direct effect upon the cost of living and therefore upon real incomes. If the reduction in the price of imported products is large and the share of imports in domestic consumption substantial, the saving made by the consumer when he buys these products will increase his purchasing power provided his money income is not at the same time reduced. This being so, free trade would seem so advantageous to all consumers that one would expect that the imposition or maintenance of a protective measure
would be strongly opposed by the public. On the contrary, protective measures are actively supported by some and generally they are not combated with much vigour by the rest of the community. Most consumers are at the same time producers, and they fear that a freer trade policy would reduce their money incomes through a fall in wages or profits or even through unemployment or bankruptcy; in these circumstances the benefit which they would gain as consumers would be of little avail to them. So there is a tendency to look askance at any programme for the removal of trade barriers which may seem to threaten security and stability, the principal aims of economic and social policy in most countries. Frequently it is not sufficiently realized that an excessive protectionism is a luxury which is paid for by a lower standard of living than a wiser use of economic resources could provide.

Apart from measures designed to protect the equilibrium of the external balance of payments - a need which is recognized in the Agreement - the main objectives of protective measures are either to guard an established or a new industry against foreign competition or to maintain full employment irrespective of the trends of employment and demand in other countries.

That there is a case for some degree of protection to a domestic industry in certain circumstances can hardly be challenged. In particular, a newly-developed industry cannot expect to compete in its early stages with established foreign competitors. There is bound to be a period of relative inefficiency. However, the protecting country should, in its own interest, maintain a strict and constant scrutiny of the nature and extent of the protection afforded. An industry which produces articles widely consumed in the home market will scarcely contribute to the economic advancement of the country if it can be kept alive only by high duties or other protective measures which substantially raise the prices of the products to the consumer. If the same capital and labour were directed to other productive purposes which could be carried out more efficiently they would contribute far more to raising standards of living. From this standpoint the General Agreement can clearly have a decisive influence for the common good and for aiding rational economic development, since it induces governments to keep their protective policies under continuous review against a broader perspective than the national scene alone. The Agreement is thus a most vital safeguard of the ultimate objectives of all international economic co-operation.

The rules for tariff negotiations assume that a country will be prepared to reduce a duty on some products and thus accept increased competition for its domestic industry, if it obtains a corresponding concession which will stimulate its export of other products. This may involve a shift of manpower or of other factors of production from less efficient to more efficient industries, the net result being a better distribution of work and a lowering of cost and prices. While this shift may be advantageous in the long run, it may create difficulties during the transitional period and cause some hardships due to frictional unemployment. These difficulties of adjustment explain why negotiations for tariff reductions are a slow process. It may be that before a new substantial advance can be made in lowering tariffs governments will have to examine whether the present tariffs provide the most economic way of assuring the continued existence of industries which they consider must be maintained
in the interest of the community even though they are not competitive. A government might find, for instance, that a subsidy would be less onerous to the public and would interfere less with the flow of trade when the domestic industry supplies only a part of the national demand, or that a tariff quota would be preferable to a high duty applying to the total imports of a product.

All the foregoing considerations are of particular importance when we look at the second main objective of protection, namely to maintain full employment. Many people fear that if the protective supports were removed national economies would become more sensitive to fluctuations in other countries, in particular to inflationary and deflationary pressures, and that the benefits derived from a better international division of labour would be very costly in terms of unemployment, stagnation and misery. These considerations played an important part in the discussions relating to the Havana Charter and also to the Agreement; the drafters of these instruments were aware of the conflict that may exist between the requirements of economic stability and of a healthy expansion of foreign trade. There is now a general recognition of the issues involved and governments should not be unduly influenced by fear of abnormal deflationary pressures in framing their normal commercial policy in accordance with the rules of the Agreement. There would be a better prospect of sustaining the impact of an economic crisis if governments were to build up sound international relations and to co-ordinate their action than if, when a crisis arrives, they act in isolation and apply self-defeating measures which strangle international trade and deepen the depression.

The Havana Conference recognized that the various aspects of economic life were intimately connected. Accordingly the ITO Charter provided that the same institution should deal with tariffs, commercial policy, economic development, commodity policy and cartels, and that it should also be closely interested in measures relating to full employment. This plan has not been implemented; while the Agreement, as the residuary legatee of ITO, has kept tariff and trade matters under its jurisdiction, the initiative in other fields appears to have passed, for the time being at least, to other international organizations. All the governments which are parties to the Agreement remain bound by the terms of the Preamble, quoted above, and must therefore administer the Agreement in the light of all these objectives; this implies that they should co-ordinate their action with that of institutions dealing with other international economic problems. When the activities of the Contracting Parties are considered in relation to problems of world economy, they appear clearly as an integral element in the general programme of international collaboration and as fulfilling the objectives set forth in the Charter of the United Nations, particularly the attainment of higher standards of living, full employment and economic and social progress.

The experience gained and the results obtained during the four years that the Agreement has been in operation should enable public opinion to appraise its value in contributing to the establishment of a better international order in the economic as well as in the political field. No international organization can flourish without the support of public opinion, and this report will serve its purpose if it stimulates people interested in economic problems - and everybody is directly affected by those problems, as producer or consumer or as both - to reflect on the prospect for an improvement in the standards of living and on the international action which may help to achieve that objective.
PART I

I. Most-favoured-nation Treatment. The basic provision of the Agreement is that which requires the exchange of most-favoured-nation treatment by the contracting parties. This first article provides that, with regard to duties, payments and formalities in connexion with imports and exports, any "advantage, favour, privilege or immunity" granted to any country must be unconditionally accorded to all other contracting parties. It then proceeds to enumerate exceptions in the form of tariff preferences which, having been in force on a certain date, may be maintained. The territories among which the preferences were operative are listed in a series of annexes; they include both sovereign countries and dependent territories.
II. The Schedules of Concessions. This article makes the annexed schedules of tariff rates an integral part of Part I of the Agreement and requires each contracting party to accord to the commerce of the others treatment no less favourable than that provided for in its schedule. Each schedule is in two parts: the first contains the negotiated rates in the most-favoured-nation tariff, and the second contains the negotiated preferential rates, if any, in the case of countries by which the maintenance of preferences is allowed under Article I. Contracting parties which negotiated at all three tariff conferences - Geneva, Annecy and Torquay - now have three schedules of bound tariff rates; consolidated schedules are being prepared and will be available to the public early in 1952.\(^1\) Other clauses of Article II are intended to prevent the impairment of the concessions provided for in the schedules by the imposition of other duties or charges, by alteration in the methods of determining dutiable value or of converting currencies or through the operations of import monopolies.

PART II

III. National Treatment on Internal Taxation and Regulation. The contracting parties recognise that internal taxes and other internal charges should not be applied to imported or domestic products so as to afford protection to domestic production. The same rule applies to laws, regulations and requirements affecting internal sale, transport or distribution and to internal quantitative regulations requiring the use of products in specified proportions. Accordingly, imported products are to be treated as favourably as like products of national origin, and contracting parties are not to maintain internal quantitative regulations relating to the use of products which require specified amounts to be supplied from domestic sources.

IV. Cinematograph Films. Internal quantitative regulations relating to exposed cinematograph films must take the form of screen quotas and conform to certain requirements. These quotas are subject to negotiation, like customs duties, for their modification or removal.

V. Freedom of Transit. Contracting parties are required to provide freedom of transit for goods en route to or from the territory of other contracting parties without distinction based on the flag of vessels, the place of origin or destination, or any circumstances relating to the ownership of the goods or the means of transport.

VI. Anti-Dumping and Countervailing Duties. A contracting party may levy a special duty in order to prevent or offset dumping, providing it is not greater than the price difference determined in accordance with a given formula. Similarly, a countervailing duty may be levied, providing it does not exceed the bounty or subsidy which has been granted on the production or export of the product. However, no anti-dumping or countervailing duty is to be levied, without the consent of the Contracting Parties, except when the dumping or subsidization would cause injury to domestic industry.

\(^1\) Consolidated Schedules of Tariff Concessions (5 volumes) English and French. Sales No. GATT/1952-1.
VII. Valuation for Customs Purposes. This article sets forth the general principles upon which imported goods are to be valued for customs purposes. In brief, valuation is to be based on the actual value of the imported merchandise, and not on the value of goods of national origin or on arbitrary or fictitious values. The contracting parties undertake to give effect to these principles "at the earliest practicable date" but, so long as they are applying the Agreement under the Protocol of Provisional Application, they are not obliged to change their methods of valuation if this would involve new legislation.

VIII. Formalities. The contracting parties recognise that fees and charges, other than duties, imposed on imports or exports, should be limited to the cost of the services rendered and should not represent a taxation of imports or exports or an indirect protection to domestic products. Further, they recognise that formalities and documentation relating to matters such as consular invoices, quantitative restrictions, licensing, exchange control, etc. should be decreased and simplified. The contracting parties are required to take action in accordance with these principles and objectives "at the earliest practicable date".

IX. Marks of Origin. This contains a most-favoured-nation clause for marking requirements.

X. Publication and Administration of Trade Regulations. Laws and regulations pertaining to the valuation of products, to rates of duty, to restrictions on trade or on the transfer of payments, or affecting the sale or distribution of imported products, must be published promptly. Also agreements affecting international trade policy which are in force between contracting parties are to be published. Contracting parties are required to administer trade laws and regulations in a uniform and impartial manner, and to maintain judicial, arbitral or administrative tribunals or procedures for the prompt review and correction of administrative action.

XI. Elimination of Quantitative Restrictions. A government adhering to the General Agreement undertakes that no prohibition or restriction (other than duties, taxes or other charges) will be applied to trade with any other contracting party. This general commitment to eliminate quantitative restrictions is qualified by a few exemptions which include export restrictions to relieve shortages of foodstuffs or other essential products and, in certain circumstances, import restrictions on agricultural or fisheries products. The terms "import restrictions" and "export restrictions", as used in Article XI to XIV, include restrictions made effective through state-trading operations.

XII. Restrictions to safeguard the Balance of Payments. This contains the most important of the exceptions to the rule of Article XI requiring the elimination of quantitative restrictions. In certain circumstances defined in the article, a contracting party may use import quantitative restrictions to safeguard its external financial position and balance of payments, but these
restrictions must be progressively relaxed as conditions improve and must be 
eliminaded altogether when conditions no longer justify their use. Moreover, 
the restrictions are to be applied so as not to prevent imports of minimum 
commercial quantities the exclusion of which would impair regular channels of 
trade.

A contracting party which is considering the need to apply restrictions is 
required to consult with the Contracting Parties as to the nature of its 
balance-of-payment difficulties, alternative corrective measures, and their 
effect on the economies of other. (South Africa consulted with the Contracting 
Parties under this provision in 1949.) And a contracting party which has sub-
stantially intensified its restrictions is required to consult within thirty 
days. (It was under this provision that consultations with the United Kingdom 
and six other countries of the sterling area and with Chile took place at the 
Fifth Session in November 1950.) Positive action on the initiative of the 
Contracting Parties is required in 1951 in the form of a review of all balance-
of-payment restrictions; this was carried out in September-October 1951 and 
resulted in a report which has been published.¹ Finally, if there is a per-
sistent and widespread application of restrictions under this Article, indicat-
ing the existence of a general disequilibrium which is hampering international trad 
the Contracting Parties are to initiate discussions to consider whether other 
measures might be taken by any of the contracting parties to remove the under-
lying causes of the disequilibrium.

This article contains a provision which was the subject of lengthy dis-
cussions when it was drafted. This is the provision which calls upon con-
tracting parties to recognise that, as a result of domestic policies, such as 
those directed towards the maintenance of employment, a contracting party may 
experience a high level of demand for imports; accordingly, no contracting 
party will be required to withdraw or modify restrictions on the ground that 
a change in such policies would render unnecessary the restrictions applied 
under this article; on the other hand, contracting parties have undertaken 
when in that situation to carry out those policies with due regard to the need 
for restoring equilibrium in their balance of payments and to avoid unnecessary 
damage to the interests of other contracting parties.

XIII. Non-discriminatory Administration of Quantitative Restrictions. The 
object of this article is to apply the principles of most-favoured-nation treat-
ment to the administration of quantitative restrictions. A prohibition or 
restriction on imports from, or on exports to, any contracting party must be 
similarly applied to trade with all other countries. In applying restrictions 
contracting parties are required to aim at a distribution of trade approaching 
as closely as possible the shares which the various contracting parties might 
be expected to obtain in the absence of the restrictions, and to this end they 
are required to observe certain principles in the administration of quotas and 
licences. If, for instance, a quota is allocated among supplying countries, 
allocation is to be based upon trade during a previous representative period 
while taking account of any special factors involved.

¹ For title etc. of the report see footnote on page 10.
XIV. **Exceptions to the Rule of Non-Discrimination.** As an exceptional arrangement for the transitional period following the last War, a contracting party applying balance-of-payment restrictions is permitted to deviate within certain limits from the rule of non-discrimination. Most of the contracting parties are governed by the "Havana option", written into the Agreement, while five, viz: Canada, Ceylon, Southern Rhodesia, South Africa and the United Kingdom, chose the "Geneva option" contained in Annex J of the Agreement which was based on the Geneva draft of the article. The difference between the two methods of limiting the discriminatory application of restrictions may be stated briefly: under Article XIV, a contracting party may deviate from the rule of non-discrimination during the postwar transitional period as it was doing on March 1, 1948, or in a manner having equivalent effect to restrictions on payments and transfers for current international transactions which it may apply under Article XIV of the International Monetary Fund; under Annex J, on the other hand, a contracting party may deviate to obtain additional imports provided, among other criteria, that the prices paid are not substantially higher than those which would have to be paid from other contracting parties.

The Contracting Parties are required to report annually on action being taken under these arrangements. The first report was published in March 1950; the second was prepared in September-October 1951, when the restrictions were being reviewed under Article XII of the Agreement, and was for convenience incorporated in the report on the review, which is referred to above under Article XII.

Starting in March 1952 contracting parties which are still entitled to take action under some of these provisions will be required to consult annually with the Contracting Parties. Procedural arrangements have been made for these consultations to be held at that time.

XV. **Exchange Arrangements.** This article deals principally with the relationship between the Contracting Parties and the International Monetary Fund. They are expected to pursue a co-ordinated policy on exchange questions within the jurisdiction of the Fund and on quantitative restrictions and other trade measures within the jurisdiction of the Contracting Parties. When the Contracting Parties are called upon to deal with problems of monetary reserves, balance of payments or foreign exchange arrangements, they are required to consult with the Fund and to accept all the findings of statistical and other facts of a financial character presented by the Fund.

In order that the purposes of the Agreement shall not be frustrated by exchange action, a contracting party which is not a member of the Fund is required to enter into a special exchange agreement imposing limitations in respect of exchange controls and currency stability similar to those accepted by members of the Fund. At the present time, two contracting parties - Haiti and Indonesia - are governed by such agreements.
XVI. **Subsidies.** A contracting party which grants or maintains a subsidy, including any form of income or price support, which has the effect of increasing exports or reducing imports, is required to notify the Contracting Parties. If the interests of another contracting party are prejudiced, the contracting party granting the subsidy is required to discuss the possibility of limiting the subsidization. Ten contracting parties have notified that they maintain subsidies of the type described in this article.

XVII. **State-trading Enterprises.** This article is intended to prevent discrimination among contracting parties through state purchases and sales. Each contracting party undertakes that if it establishes or maintains a state enterprise, or grants exclusive or special privileges to any enterprise, the purchases and sales will be consistent with the principles of non-discriminatory treatment prescribed for governmental measures affecting imports and exports by private traders. Purchases and sales by such enterprises are to be made in accordance with commercial considerations, and the enterprises of other contracting parties are to have opportunities to compete.

XVIII. **Governmental Assistance to Economic Development and Reconstruction.** This article contains provisions from Chapter III of the Havana Charter whereby an adhering government may obtain authority to impose non-discriminatory, protective measures for purposes of economic development or reconstruction, or, in the actual words of the article, to give "special governmental assistance to promote the establishment, development or reconstruction of particular industries or branches of agriculture". Applications for authority to impose such measures are treated in accordance with established procedures and are judged by certain criteria depending upon whether the measures would conflict with negotiated commitments and/or with other provisions of the Agreement. Authority has been given by the Contracting Parties for the temporary maintenance or imposition of several measures by Ceylon, Cuba, Haiti and India.

XIX. **Emergency Action.** This article is an "escape clause" on the lines of that which has been incorporated in agreements negotiated by the United States Government under the Reciprocal Trade Agreements Act. If, as a result of unforeseen developments and of the effect of obligations incurred under the Agreement, including tariff concessions, a product is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers, the contracting party may suspend the obligation or modify the concession. Notice of such action must be given to the Contracting Parties, and if agreement is not reached in consultations injured parties may be authorized to suspend equivalent obligations or concessions. The United States is thus far the only country which has taken action under these provisions; in 1950 it invoked this Article to suspend concessions which it had granted on a group of products generally referred to as "women's fur felt hats and hat bodies". A report on this subject has been published by the Contracting Parties.

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XX. General Exceptions. This article contains the provisions, which have traditionally appeared in commercial treaties, for action to protect public morals, public health, national treasures, etc. In addition, the Agreement does not prevent the adoption, subject to certain safeguards, of measures essential to the acquisition or distribution of products in short supply or to the control of prices or the liquidation of surplus stocks subsequent to the War; these measures were to be removed by January 1951, but this exemption has been extended to 1 January 1954.

XXI. Security Exceptions. Additional exceptions are set out in Article XXI, which states that the Agreement is not meant to require any contracting party to furnish information against its essential security interests, to prevent the protection of security interests relating to fissionable materials, traffic in arms, etc., or to prevent action in pursuance of obligations under the United Nations Charter for the maintenance of peace.

XXII. Consultation. Each contracting party is required to afford opportunities for consultation on any representations that may be made concerning the operation of the Agreement.

XXIII. Nullification or Impairment. Complaints that benefits which should accrue under the Agreement are being nullified or impaired are to be addressed in the first instance to the contracting party concerned. If no satisfactory adjustment is effected, the Contracting Parties may be asked to investigate and to make recommendations or give rulings; they may authorize injured parties to suspend obligations or concessions, but in that event the party complained against may withdraw from the Agreement.

PART III

XXIV. Customs Unions and Free-Trade Areas. This article recognizes that the closer integration of national economies is a desirable objective and that a customs union may serve to facilitate trade between the participating countries while not raising barriers against the trade of others. Accordingly, the Agreement does not prevent the formation of a customs union, provided the duties and other trade regulations will not on the whole be higher or more restrictive than those previously in force. In the event that two or more contracting parties conclude an interim agreement for the formation of a customs union they are required to notify the Contracting Parties who will examine the details of the plan and judge whether the agreement is likely to result in a union within a reasonable period of time. The formation of a free-trade area, i.e. a group of two or more customs territories in which the duties and other restrictive trade regulations are eliminated on substantially all the trade between them, is treated similarly. However, the Contracting Parties may, by a two-thirds majority, approve a proposal for the formation of a customs union of a free-trade area even though it does not fully comply with the requirements of this article. The difference between a free-trade area and a customs union is that the countries forming a free-trade area are not required to adopt a common tariff.
From the beginning, in 1948, two groups of countries participated in the application of the Agreement as customs unions, namely, Belgium, Netherlands and Luxemburg, as members of the Benelux Union, and Syria and Lebanon. More recently the Syro-Lebanese Union has been dissolved, and both countries have withdrawn from the Agreement. In 1949, the Contracting Parties gave their approval to the terms of the Interim Agreement for the re-establishment of a customs union between South Africa and Southern Rhodesia which is to be completed not later than 1959. In 1951 the Contracting Parties approved a proposal made by Nicaragua to form a free-trade area with El Salvador, a country not party to the Agreement.

Article XXIV deals also with the territorial application of the Agreement and defines the term "customs territory". In addition, it provides that the Agreement shall not be construed to prevent advantages accorded by a contracting party to adjacent countries in order to facilitate frontier traffic.

XXV. Joint Action by the Contracting Parties. The contracting parties are required to hold meetings from time to time to give effect to those provisions which require joint action and to facilitate the operation of the Agreement. This article contains an important clause permitting an obligation imposed upon a contracting party by the Agreement to be waived provided this is approved by two-thirds of the votes cast and by more than half of the contracting parties. This waiver provision has been used on sixteen occasions.

A paragraph, added to this article after the Havana Conference, provides that if a contracting party has failed to carry out negotiations for tariff reductions the Contracting Parties may authorize the withholding of concessions and if concessions are withheld the contracting party which did not negotiate will be free to withdraw from the Agreement.

XXVI. Acceptance and Entry into Force. At the present time the Agreement is being applied provisionally. Provisional application has been made effect for the metropolitan territories of all contracting parties and for the dependent territories of Belgium, France (with the exception of Morocco), the Netherlands and the United Kingdom (with the exception of Jamaica). Under Article XXVI, the Agreement will be brought into force definitively when it has been accepted by governments whose territories account for 85 per cent of the total external trade of those which negotiated at Geneva in 1947. The percentage requirement could be met by the adherence of the United Kingdom, the United States, Benelux, France, Canada (which were, in that order, the principal trading nations in 1938) and three other countries.

XXVII. Withholding or Withdrawal of Concessions. A contracting party is free to withhold or withdraw any concession initially negotiated with a government which has not become, or has ceased to be, a contracting party. However, since concessions are granted as of right to all contracting parties, a contracting party which withdraws a concession is required to consult with others substantially interested in the product concerned.
XXVIII. Modification of Schedules. The rates of duty bound in the schedules were not to be altered before January 1951. Thereafter, contracting parties were free to modify or cease to apply the treatment which they had agreed to accord to individual tariff items provided they negotiated and reached agreement with the contracting parties with which the concessions were initially negotiated and subject to consultation with others having a substantial interest. If agreement could not be reached the modification or withdrawal could nevertheless be made, but in that event other contracting parties could withdraw equivalent concessions. Renegotiation of a relatively small number of items was carried out during the Torquay Conference and, with the resulting modifications, all but two of the contracting parties have agreed to prolong the assured life of the schedules until January 1954. The text of this article was amended accordingly by the Torquay Protocol.

XXIX. The Relation of the Agreement to the Charter. The principal link between the Agreement and the Havana Charter appears in this article wherein the contracting parties undertook, pending their acceptance of the Charter, to observe to the fullest extent of their executive authority the general principles of Chapters I to VI and of Chapter IX of the Charter, i.e. the chapters dealing with the purpose and objectives of the ITO, employment and economic activity, economic development and reconstruction, commercial policy, restrictive business practices, intergovernmental commodity agreements and the general provisions; this omits only the chapters dealing with the organization, functions and procedures of the ITO. In the event that the Charter does not enter into force, the contracting parties are to decide whether the Agreement should be "amended, supplemented or maintained".

XXX. Amendments. Amendments to Part I and to Articles XXIX and XXX require the acceptance of all contracting parties, but other amendments become effective, for those which accept them, upon acceptance by two-thirds. The Contracting Parties may decide that any government which has not accepted an amendment made effective under the two-thirds rule is free to withdraw from the Agreement or to remain a contracting party only with their consent. At their six sessions, the Contracting Parties have drawn up six protocols modifying the text of the Agreement and also nine protocols making rectifications or adjustments in the schedules; ten of these, including all those relating to the schedules, have required unanimity before becoming effective.

XXXI. Withdrawal. When the Agreement is applied definitively, under Article XXVI, a contracting party will be free to withdraw after six months' notice. Under the Protocol of Provisional Application, on the other hand, two months' notice of withdrawal is sufficient.

XXXII. Definition of Contracting Parties. The "contracting parties" are defined as those governments which are applying the provisions of the Agreement under Article XXVI or XXXIII or pursuant to the Protocol of Provisional Application. When the Agreement is applied definitively, the contracting parties which have accepted it under Article XXVI may decide that any contracting party which does not so accept it must cease to be a contracting party.
XXXIII. Accession. The terms upon which governments may accede to the Agreement are fixed by the Contracting Parties. Decisions on accession are taken by a two-thirds majority. It is on the basis of such decisions that thirteen governments have acceded to the Agreement following the Annecy and Torquay Conferences.

XXXIV. Annexes. The annexes to the Agreement are an integral part of it. Annexes A to F give the lists of territories covered by the preferential arrangements referred to in Article I. Annex G gives the dates establishing the maximum margins of preference for those governments which chose a date other than April 10, 1947. Annex H gives the percentage shares of the total external trade of the original contracting parties, to be used for the purposes of Article XXVI. Annex I contains about forty interpretative notes explaining, and elaborating upon, words and phrases in the articles of the Agreement. Annex J has been described above in connexion with Article XIV.

XXXV. Non-application. This article permits a contracting party to withhold application of the Agreement, or application of its own schedule, from another contracting party with which it has not entered into tariff negotiations. Under this article, India has withheld application of the Agreement, and Pakistan has withheld application of its schedule, from South Africa. Cuba has withheld application of the Agreement from twelve of the thirteen countries which acceded following the conferences at Annecy and Torquay.