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THE ATTACK
ON
TRADE BARRIERS

A PROGRESS REPORT ON THE OPERATION
OF THE GENERAL AGREEMENT ON TARIFFS
AND TRADE

From January 1948 to August 1949

Published by the Interim Commission for the International Trade Organization at the request of the Contracting Parties to the General Agreement on Tariffs and Trade.

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FOREWORD

The reasons for the appearance of this Report at this time may be simply stated.

There is today an urgent, crying need for an organization of governments capable of grappling with the major problems of international trade - bilateral deals and blocked payments, quota restrictions and licences, tariff bargaining and discrimination. This need has long been foreseen. The International Monetary Fund has been operating in the sphere of currency and exchange control. But the delay in the creation of its sister organization, the International Trade Organization, leaves an unfortunate gap in the closely related realm of commerce.

The Contracting Parties to the General Agreement on Tariffs and Trade are not an organization. They have no staff or equipment of their own. Yet with the assistance of the Interim Commission for the International Trade Organization they have devised methods and procedures for dealing with many trade problems which will one day be among the responsibilities of the ITO.

The General Agreement is by no means a substitute for the Havana Charter for the ITO. But the contracting parties, which include the important trading nations and carry on some 80 per cent of world trade, have assumed extensive obligations in their relations with one another which are similar to, and in fact closely modelled on, some of the obligations to which they will be committed when they accept the Charter.

The countries adhering to the Agreement are, I believe, capable of playing, in their joint capacity as Contracting Parties, a vital rôle in dealing with the urgent present-day problems of world trade, pending the establishment of the ITO. It is for this reason in particular that the time is opportune for the publication of a study of the Agreement, its operation and its potentialities. Any study of the Agreement must face up to its technicalities, but we have done our best to inform the layman as well as the specialist.

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

Geneva,
August, 1949.
WHAT IS "GATT"?

The General Agreement\(^1\) is an international trade agreement. It has been accepted by twenty-three countries and has been in operation since January 1948. The General Agreement represents an effort without precedent to liberate world trade from the morass of prohibitions, restrictions and controls with which it has been clogged before and still more since the war. Following the depression of the nineteen-thirties, the trade of European countries and of most of the world was regulated by quotas, exchange controls, clearing agreements and barter deals, which relegated the customs tariff, the normal instrument of trade control, to a minor rôle. It became evident during the last war that the restrictions on trade would grow even more onerous unless a resolute attempt were made to restore to Europe and the world a one-market economy.

The history of the Agreement is inseparable from that of the Havana Charter for the International Trade Organization. The story began with the initiative of the United States in the Atlantic Charter and the Mutual Aid Agreements, both of which showed the influence of the reciprocal trade policy of the Roosevelt Administration and were associated with the name of Cordell Hull. Long before the end of the war the United States, the United Kingdom and other principal trading countries among the United Nations discussed the establishment of organizations to tackle the postwar problems of currency, investment and trade. The articles of Agreement of the International Monetary Fund and the International Bank for Reconstruction and Development were prepared before the end of the war, but the Charter for the International Trade Organization, being a far more complicated document, was not completed until March 1948.

For nearly eighteen months the Havana Charter has been before fifty-four governments for acceptance. The time has now come when the many problems with which it is intended to deal must be tackled by whatever means are available. Fortunately, some of the urgent problems of trade can be tackled through the General Agreement, though, admittedly, definitive discussions and solutions must await the formation of the International Trade Organization.

With its lengthy schedules of tariff rates, the Agreement reflects the determination of many countries to reduce the obstacles to trade and to provide a basis for the freer movement of goods when the postwar controls, which still restrain trade within predetermined channels, are removed. The Agreement could not be expected to replace bilateral trade

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\(^1\)Throughout this Report the words "General Agreement" or simply "Agreement" will be used instead of "GATT" as an abbreviation for "The General Agreement on Tariffs and Trade", and "ITO" or "the Organization" will be used for "The International Trade Organization". The expression "Contracting Parties" is written with capitals "C" and "P" when used in the collective sense of the contracting parties acting jointly.
arrangements by a multilateral trading system in one stage. It recognizes that the problems confronting the world economy are extremely deep-rooted. It recognizes the difficulties which have arisen as a result of two world wars - the shifts in productive power, the lack of security, the destruction of resources and equipment - but it is inspired by the belief that the world will be able to return eventually to freer trade, to trade less hampered by governmental intervention and control.

By way of introduction for the reader who is not well acquainted with the history of the Agreement, this Report requires three brief notes:

The two rounds of tariff negotiations

While the Charter for the ITO was in the course of preparation the members of the Preparatory Committee, appointed by the Economic and Social Council of the United Nations, proceeded with negotiations for tariff reductions among themselves instead of waiting for the Organization to come into existence. The multilateral negotiation of tariff reductions was a new venture in international commercial relations. Attempts, all unsuccessful, had been made to reach agreement upon maximum tariff rates and upon percentage reductions of tariffs. This was the first endeavour, however, to bring about lower duties by multilateral negotiations and bargaining. The negotiations were conducted in Geneva commencing in April 1947, concurrently with the second meeting on the drafting of the Charter. All the members of the Preparatory Committee, with the exception of the USSR which took no part in the work, participated in the negotiations. 1

In this way a start was made on the reduction of tariffs. It was always intended that other countries would be afforded an opportunity to adhere to the Agreement in order to reduce further the tariff and other trade barriers. In 1948, the Contracting Parties planned a second round of tariff negotiations. Eleven governments accepted the invitation to participate and the negotiations opened at Annecy, France, in April 1949. 2

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1 The participating countries were: Australia, Belgium, Brazil, Canada, Chile, China, Cuba, Czechoslovakia, France, India, Lebanon, Luxembourg, the Netherlands, New Zealand, Norway, South Africa, United Kingdom and United States. In addition, negotiations were conducted by the United Kingdom on behalf of Burma, Ceylon and Southern Rhodesia; Syria joined with Lebanon in negotiating on their common tariff; and the results of the negotiations carried out by India were accepted by both the new Dominions, India and Pakistan.

2 The governments participating at Annecy were: Colombia, Denmark, Dominican Republic, Finland, Greece, Haiti, Italy, Liberia, Nicaragua, Sweden and Uruguay.
Provisional application of the Agreement

The twenty-three governments which participated in the Geneva negotiations have become contracting parties. But they are applying the Agreement only provisionally under an arrangement, the Protocol of Provisional Application, which enabled them to bring the new tariff rates into effect, to establish most-favoured-nation treatment among themselves, and to follow the rules laid down in the general provisions of the Agreement. Under provisional application the contracting parties are not required to amend existing legislation or to promulgate new legislation in order to adhere most closely to the Agreement; they are however expected not to enact any new legislation that is inconsistent with it.

The three sessions of the Contracting Parties

Frequent reference will be made in this Report to the "Sessions" of the Contracting Parties. They require a brief note of explanation. The Agreement requires representatives of the contracting parties to meet from time to time for the purpose of giving effect to those provisions which require joint action. In accordance with this arrangement three sessions of the Contracting Parties have been held:

The first session took place at Havana in March 1948, during the closing weeks of the United Nations' Conference on Trade and Employment; the second session was held at Geneva in August and September 1948; and the third session was held at Annecy during April-August 1949, while the contracting parties were conducting their tariff negotiations with the acceding governments.

The following sections of this Report describe in more detail the reduction of tariffs, the contents of the Agreement and the work of the three sessions of the Contracting Parties.
KNOCKING DOWN TARIFFS

Multilateral tariff bargaining, as devised at the London Session of the Preparatory Committee in October 1946 and as worked out in practice at Geneva and Annecy, is one of the most remarkable developments in economic relations between nations that has occurred in our time. It has produced a technique whereby governments, in determining the concessions they are prepared to offer, are able to take into account the indirect benefits they may expect to gain as a result of simultaneous negotiations between other countries, and whereby world tariffs may be scaled down within a remarkably short time.

The Geneva experiment in 1947

In preparation for the negotiations, the participating governments exchanged lists of requests for tariff concessions on products which were of particular importance to their export trade. It was understood that each country would be prepared to consider requests for the reduction or binding of duties from the countries which were the principal suppliers of imported products. The multilateral character of the Agreement enabled the negotiators to offer more extensive concessions than they might have been prepared to grant if the concessions were to be incorporated in separate bilateral agreements. Before the Geneva negotiations a country would have aimed at striking a balance between the concessions granted to another country and the direct concessions obtained from it without taking into account indirect benefits which might accrue from other prospective trade agreements; it might even have been unwilling to grant an important concession if it had been obliged to extend that concession to third countries without compensation.

The multilateral method of negotiation thus maximized the scope and extent of the concessions granted. As a rule, the requests for concessions covered all products of interest to the negotiating countries; but for a product of which the principal supplier was not among the participating countries, the duty was generally reserved for negotiation on another occasion with that principal supplier; some duties thus reserved at Geneva have been negotiated with acceding governments at Annecy. Moreover, the negotiations proceeded on a selective product-by-product basis, no country being compelled to negotiate on any rate of tariff duty if it did not wish to do so, provided that the negotiations resulted in a mutually advantageous arrangement.

The negotiations actually began at Geneva when pairs of countries were ready to exchange offers in response to the requests they had received from each other. During this bilateral stage all delegations were kept informed of the requests and offers exchanged, and at the conclusion of the meeting the full list of concessions offered by each country was subject to review in the light of the results of the other negotiations.
One hundred and twenty-three negotiations were completed in seven months. This is a truly remarkable achievement when it is recalled that the revision of a commercial treaty between two countries with a large volume of trade has frequently required the full-time attention of numerous negotiators for a year or more. 123 trade agreements in seven months!

The reductions and bindings of customs duties undertaken at Geneva by the governments which have since become the twenty-three contracting parties to the Agreement are contained in twenty schedules. In these schedules there are some 45,000 tariff items relating to about a half of world trade, and these constitute an integral part of the Agreement. Generally the concessions took the form of reducing most-favoured-nation or preferential rates of duty or binding the existing rates. Other matters frequently entered into the negotiations such as the description and classification of products, the treatment of imported goods, and import monopolies. All the rates in the twenty schedules are bound against increase at least until January 1951, thus lending a new element of stability to world tariffs.

Five of the schedules negotiated at Geneva were made effective on 1 January 1948, and fourteen others at various times from January to July of that year. Finally, the twentieth was applied in March 1949.

**Modification of negotiated commitments**

The consolidation of tariff rates over a wide area of world trade is an important and significant step in commercial policy. It means that customs duties are fixed by agreement. On many occasions in the past, bilateral agreements which consolidated rates of duty were severely criticised on the ground that they involved a loss of tariff autonomy. That governments were now prepared to undertake these far-reaching multilateral commitments is, possibly, evidence that they were mindful of the danger of a spate of tariff increases such as had occurred many times in the past.

When a score of governments agree upon the bringing into force of many thousands of maximum customs duties, it is to be expected that some of them will find that full observance causes grave difficulties or embarrassment either because there was some miscalculation of effects or through unforeseen developments. The General Agreement makes no provision for modification of bound rates before January 1951, but the Contracting Parties can nevertheless make changes in the schedules provided they are unanimous in their desire to do so. The rigidity of the bound rate can be relaxed in practice. Moreover, there is in the Agreement an "escape clause" under which a contracting party may remove a concession from its schedule, if as a result

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1There are twenty schedules instead of twenty-three because Belgium, Luxemburg and the Netherlands have a joint schedule, and the same applies to Lebanon and Syria.
of that concession imports increase to an extent that threatens serious injury to domestic production. Parties affected by such action will be free to suspend equivalent concessions extended to that contracting party. This clause has not been invoked.

Requests for the modification or withdrawal of duties bound by the Agreement have been received from four contracting parties: from Brazil because the national Congress was reluctant to approve the concessions granted on three items but on many others had fixed duties at rates lower than those required by the Agreement; from Ceylon because of the grave financial difficulties encountered since the completion of the negotiations; from Cuba in order to assist certain agricultural producers and to prevent reduced production and unemployment in the textile industry; and, finally, from Pakistan, which had come into existence as an independent State while the negotiations were in progress at Geneva, as she desired to renegotiate some of the concessions granted by the Government of pre-partition India in the light of her new economy. In each case the Contracting Parties agreed that negotiations should proceed with those contracting parties with which the concessions had been initially negotiated. The requests of Brazil, Ceylon and Pakistan were granted, those of the last named without compensation. A part of the request of Cuba was granted and negotiations on the remainder may continue.

Other adjustments of the schedules, although of rather a different nature from those described in the foregoing paragraphs, have been required to take account of technical modifications in the national tariffs themselves; for example, the 'renumbering' of tariff items is a frequent occurrence. These non-substantive changes, and also the inevitable typographical and printing errors, have been put right by means of protocols of rectifications. The most extensive of the non-controversial changes was requested by the Government of Australia which had revised the value-for-duty provisions of its customs laws rendering necessary an adjustment in the legal tariff rate of every duty based upon value. The revision of the Australian schedule was effected by a special protocol prepared during the Annecy Session.

The second attack at Annecy in 1949

The tariff negotiations between the contracting parties and eleven other signatories of the Final Act of Havana were conducted at Annecy on the multilateral plan which had been used so successfully at Geneva. After the invitation had been accepted by the eleven governments, preparations were made, requests for concessions were exchanged, and the negotiations were opened at Annecy with the exchange of offers commencing in April 1949. It was not to be expected that every country participating would negotiate with every other, as in many cases the trade involved was not sufficient to provide scope for the exchange of advantages. Of the 220 possible negotiations between the contracting parties and the acceding governments it is expected that 130 will have taken place when the negotiations conclude, and of the 55 possible negotiations among the acceding governments, that 20 will have been carried out.
This operation will result in additions to 18 of the 20 Geneva schedules and in 11 new schedules for the acceding governments. The work of negotiation and the compilation of schedules will have occupied five months. 150 new tariff agreements in 150 days.

While the negotiations were in progress, the Contracting Parties, in consultation with the acceding governments, drew up the terms on which the acceding governments would be enabled to accede to the Agreement. This requires a separate decision of the contracting parties for each acceding government. The protocols will be open for signature by the contracting parties from 10 September, the date by which negotiations are expected to be completed, until 30 November, and by the acceding governments until 30 April 1950. Upon receiving the support of two-thirds of the contracting parties and upon itself signing the relevant protocol an acceding government will become a contracting party. It will then be required to apply its tariff concessions agreed upon at Annecy and will receive the benefit of the concessions of the present contracting parties, whether negotiated at Geneva in 1947 or at Annecy.

It is not yet possible to appraise the effects which the Annecy negotiations may have on the development of international trade, but it may be useful to draw attention to one factor which was not present at the time of the Geneva negotiations in 1947. Since the General Agreement was drawn up, 16 European countries have signed the Convention on European Economic Cooperation by which they undertook "to co-operate in reducing tariff and other barriers to the expansion of trade, with a view to achieving a sound and balanced multilateral trading system such as will accord with the principles of the Havana Charter".

Most of the 16 signatories of the Convention were present at Annecy, either as contracting parties or as acceding governments, and the tariff negotiations offered an appropriate procedure to give effect to that undertaking and to contribute to the achievement of the main objectives of the Convention. On the one hand, the tariff reductions negotiated at Annecy could stimulate European exports to the Western Hemisphere and, to that extent, could reduce the deficit of Western Europe with the Western Hemisphere and other areas; on the other hand, tariff negotiations between European countries could be conducted so as to facilitate economic integration of the European economies.

A universal agreement

The Agreement is intended as a world-wide operation and is designed to cover all types of economies. Normally, tariff bargaining pertains to trade conducted by individuals and private companies, uncontrolled except by governmental directives and taxes. But in the Havana Charter, which is used as a guide by the Contracting Parties in these matters, there is provision for the negotiation of arrangements to limit the protection
afforded to domestic production when goods are purchased by State agencies or import monopolies. This approach is more than ever necessary in the present day when all governments conduct some State-trading operations and in which some national economies are entirely State controlled. The Soviet Union could have participated in framing the Havana Charter and in the negotiations leading to the General Agreement had she so desired. Czechoslovakia is a contracting party and takes an active part in the deliberations of each session.

The Agreement does not ignore the countries defeated in the last war and still under occupation. A note attached before signature in October 1947 recorded that the applicability of the Agreement to the trade of contracting parties with areas still under military occupation had been reserved for further study. At the request of the Government of the United States this question was taken up at the second session when it was suggested that the contracting parties should complete an international agreement to grant most-favoured-nation treatment in their trade with Western Germany. An agreement was prepared and opened for signature at the close of the session, although it was in no way connected with, or dependent upon the General Agreement itself. Fourteen countries, all contracting parties, have acceded to this agreement on Western Germany.

At the third session the United States proposed a further discussion of commercial relations with occupied areas, having in mind particularly the extension of most-favoured-nation treatment to trade with Japan. The subject was later withdrawn from the agenda. The United States delegation, however, explained their reasons for advocating equality of treatment and expressed the hope that this policy would be adopted by the contracting parties in their relations with Japan.

A project to extend another invitation to "outside" governments to negotiate with a view to acceding to the Agreement is likely to be considered.
THE MOST-FAVOURED-NATION CLAUSE

The key provision of the General Agreement is the guarantee of most-favoured-nation treatment in international trade. This is based upon the famous clause which has figured so prominently in the trade treaties of the principal trading countries for a hundred years or more. The first Article of the Agreement requires each contracting party to accord immediately and unconditionally to other contracting parties all advantages, favours, privileges, and immunities which it grants to any other country. This clause follows the standard text recommended by a committee of the League of Nations in 1929.

Preferences

Having established the principle of non-discrimination, Article I proceeds to enumerate the countries and territories between which the preferential customs duties existing on a fixed date may be maintained. Nineteen of the contracting parties and two of the acceding governments are involved in this arrangement.

The contracting parties have agreed not to increase or grant new preferences. They have accepted the intentions of the ITO Charter which requires that tariff negotiations among members shall be directed to the elimination of existing preferences as well as to the reduction of most-favoured-nation rates of duty. Consequently, eleven of the Geneva schedules contain reductions and bindings of preferential rates of duty.

The schedules of Benelux, France and the United Kingdom include sections relating to the tariffs of seventeen dependent overseas territories and six of these record the results of negotiations on preferential as well as most-favoured-nation duties. Among the tariff concessions of dependent territories in the United Kingdom Schedule were those of Palestine and Newfoundland. These were negotiated at Geneva in 1947, but the United Kingdom ceased to have international responsibility for the mandated territory of Palestine in May 1948 and Newfoundland became a Province of Canada in April 1949. This was reported to the Annecy session and consequently the relevant sections of the United Kingdom Schedule were deleted.

At Geneva in 1947 the negotiations between Cuba and the United States included some items on which preferential treatment in favour of Cuban products is permitted by the Agreement. Cuba secured a binding of numerous preferential rates. For those products on which the most-favoured-nation rate was also bound in the United States Schedule, the Cuban Government was under the impression that the margin of preference was contractually fixed at least until January 1951. Moreover, they thought that the commitments of the United States Government on the preferential margins were confirmed by the provisions of a bilateral agreement concluded during the negotiations.
At Annecy the United States negotiated on some of these products with Cuba's competitors and offered to reduce the most-favoured-nation rates of duty thus reducing, and in some cases eliminating, the margin of preference. Cuba's protest was discussed at the third session. The Contracting Parties reached three important decisions, namely, (i) that the determination of rights and obligations between governments arising under a bilateral agreement is not a matter within the competence of the Contracting Parties; (ii) that the reduction of the rate of duty on a product, provided for in a schedule to the Agreement, below the rate set forth therein, does not require unanimous consent of the Contracting Parties; and (iii) that a margin of preference, on an item included in either or both the most-favoured-nation and the preferential parts of a schedule, is not bound against decrease by the provisions of the Agreement. In taking these decisions, the Contracting Parties recognized, however, that a country in the position of Cuba, which considers that a situation has arisen depriving it of benefits that should accrue under the Agreement, could have recourse to the "nullification or impairment" procedures.

An exception has been made to the rule that no new preferences are to be established. At the second session the Government of the United States obtained a waiver of this obligation in order to grant preferential treatment to goods imported from the Pacific Islands which were formerly held by Japan under mandate and which had been placed under the trusteeship system of the United Nations with the United States as the administering authority. The Contracting Parties agreed to waive the most-favoured-nation provisions of the Agreement to enable the United States to accord duty-free treatment to products of these trust territories on the understanding that the margins of preference first created would thereafter be bound against increase in the same manner as other preferences under the Agreement. This decision is subject to review if at any time the preferences established are found to be injurious to the trade of any contracting party. The United States, however, has taken no action under this waiver.

1 Considering its nature and scope, the General Agreement has proved to be a flexible instrument. It contains provisions which enable the Contracting Parties to acknowledge the development of unforeseen circumstances and to adjust the obligations of contracting parties accordingly. In exceptional circumstances the Contracting Parties may waive an obligation imposed upon any of the parties by the Agreement. This procedure has been used on several occasions which have been mentioned elsewhere in this Report. The means by which a stultifying rigidity has been avoided is a development of special significance in international law and economic relations.
Customs unions

The formation of larger trading units, such as customs unions and free-trade areas which promote world trade are permitted by the Agreement. But care is taken to ensure that in achieving a customs union the countries concerned do not merely increase existing preferences or establish new ones. The Contracting Parties are prepared to encourage the formation of customs unions provided the agreements that are entered into with this end in view fulfil certain criteria and are confidently expected to lead to the promise achievement within a reasonable length of time.

Among the original contracting parties, there are two groups of countries which have formed customs unions since the war, namely: Belgium, Luxemburg and the Netherlands, and Lebanon and Syria. These two groups were accepted as unions for the purpose of the Geneva negotiations and each group was considered as having a single customs tariff.

Among the contracting parties, another union is in the process of formation by South Africa and Southern Rhodesia. The Governments of these two countries propose to restore the customs union which existed for more than twenty years prior to 1930. The plan was examined and approved at the third session. The Governments have undertaken to complete the union within a fixed time and to submit progress reports on the elimination of tariffs and restrictive regulations between the two territories and on the application of the common tariff and regulations to the trade of other contracting parties. It is by such means that the Contracting Parties will endeavour to ensure that customs union arrangements are not merely a means of circumventing the obligations of the most-favoured-nation clause of the Agreement.

At the first session, the Contracting Parties were informed by the French Government that plans were being made for a customs union between France and Italy. Since Italy was not a contracting party, France obtained a waiver of most-favoured-nation obligations. An agreement was signed by the two Governments in March 1949, and it is expected that this will be submitted for examination by the Contracting Parties at their next session. During the Annecy negotiations the Danish, Norwegian and Swedish delegations reported that their governments were examining the possibility of establishing a common tariff with a view to entering into a Scandinavian customs union which might possibly include Iceland. Another possible union which may involve a contracting party is that which would link Colombia with Ecuador, Panama and Venezuela.

Discrimination in exports

The most-favoured-nation obligations of the Agreement apply to exports as much as to imports. It was this provision that led, during the third session, to the charge by Czechoslovakia that the United States was discriminating between contracting parties in its administration of export controls.
Czechoslovakia alleged that the licensing requirements and formalities imposed by the United States constituted a violation of the Agreement, and, so far as Czechoslovakia was concerned, caused an impairment of benefits. In reply, the United States recognized that export controls were operated to prevent war materials and articles which could contribute to war potential from reaching certain countries, but in the opinion of their Government this action was permissible under the general and security exceptions of the Agreement and the export licences were only a formality. The contention of Czechoslovakia that the United States had failed to carry out its obligations under the Agreement was rejected.

A question of rebates

The provisions of the most-favoured-nation clause were invoked on another occasion. The Government of India, prior to partition in 1947, had granted rebate of excise duties on several commodities, such as tobacco, tea and sugar, when destined for export to foreign countries. The new Government of India maintained the excise duties and also the system of rebate on exports, but continued to collect the excise duties on exports to Pakistan territories without granting rebate. The Government of Pakistan claimed all the privileges and immunities enjoyed by other contracting parties and charged that the withholding of rebate constituted discriminatory treatment and was a violation of India's most-favoured-nation obligations.

At the second session the Contracting Parties invited the two Governments to consult in order to reach an amicable settlement. This was done, and they reported to the third session that an agreement had been reached whereby each Dominion would grant full rebate on excisable commodities exported to the other Dominion whenever rebate was given on export to any other country. The two Governments had gone further than that: they had taken advantage of a provision, allowing them to make special arrangements pending the establishment of their trade relations on a definitive basis, and had agreed that for a period of one year they would grant rebate of duties on all excisable commodities even though rebate was not given on exports to other countries.
PROTECTING THE TARIFF CONCESSIONS

The General Agreement was framed during the Geneva meetings in 1947 to give effect to the tariff reductions and bindings. The fact that in the draft ITO Charter the obligation to undertake tariff reductions was supported by many other obligations in matters of commercial policy was not overlooked. It was evident that the value of the tariff concessions might be destroyed if the contracting governments were at liberty to introduce or intensify discriminations against foreign products or restrictions on their importation. In order to protect the value of the concessions against measures of indirect protection and "invisible tariffs", pending the establishment of the ITO, many of the commercial safeguards of the draft Charter were incorporated in the Agreement.

It was not to be expected, however, that governments would be able to obtain the approval of their parliaments for obligations which were still in draft form and liable to be changed at the conference which was scheduled to open in November 1947 at Havana. Therefore, the safeguarding provisions were placed in a separate section (Part II) of the Agreement and, as explained earlier, an arrangement was made for the provisional application of the Agreement. Under the Protocol of Provisional Application the contracting parties accepted a commitment to apply Part II "to the fullest extent not inconsistent with existing legislation" and in addition they undertook to observe the general principles of the Charter "to the fullest extent of their executive authority". On the basis of this compromise, it was possible to proceed with the conclusion of the negotiations and governments were able to make the agreed tariff rates effective.

One of the basic principles of the Havana Charter is that all protection of domestic producers against foreign competition should be inscribed in the customs tariff, to be seen by all and to be open for negotiation with other members of the Organization. Protection hitherto in concealed and indirect forms is to be driven into the open. There are to be no more hidden preferences or discriminations through the medium of internal taxes, regulations affecting internal sale or use, methods of valuation or import formalities. Further, other forms of frontier controls, such as quantitative restrictions, and the restrictive operation of State trading organizations and import monopolies are to be checked and confined to specific purposes and circumstances.

The obligations of contracting parties concerning the use of internal taxes and quantitative restrictions were responsible for some of the most interesting aspects of the third session at Annecy.
Taxation of imported goods

One of the important safeguards against indirect protection is contained in Article III which requires contracting parties to grant to all imports from other contracting parties national treatment in internal taxation: imported products are not to be subjected to internal taxes or other internal charges in excess of those applied to like domestic products.

For many years, the Government of Brazil has employed for revenue purposes an extensive system of consumption taxes on retail sale. But many imported articles are taxed at a substantially higher rate than local products. The Government of Brazil recognizes that if it becomes a member of the ITO or if the Agreement is applied definitively, it will be obliged to remove this discriminatory element for goods imported from members of the Organization or from contracting parties.

A question arose at the Third Session as a result of action by the Brazilian Congress in revising the rates of tax on many products including several of particular interest to France, the United Kingdom and the United States. The tax on liqueurs, for example, was increased six-fold, and the difference of 100 per cent between the rate on the domestic product and the rate on the foreign product was maintained. The representatives of countries exporting these products to Brazil contended that this involved an increase in the margin of discrimination. The Government of Brazil, on the other hand, took the view that since the former law required that foreign products be taxed at twice the rate of domestic products, the increase was consistent with existing legislation and therefore was not contrary to the provisions of the Protocol of Provisional Application. Nevertheless, the Government undertook to ask Congress to proceed as soon as possible with the amendment of all such laws in order to bring them into conformity with the provisions of the Agreement.

Quantitative restrictions

The negotiations at Geneva were conducted in the knowledge that a vast network of quantitative restrictions was the dominant factor in world trade and that these restrictions were not likely to be eliminated in the near future. And yet the reduction of duties could not have been undertaken with any feeling of satisfaction or confidence in the ensuing benefits if the Agreement did not contain a substantial safeguard against the extension and intensification of licensing and quota regulations. Therefore, it was necessary to adapt the "Q.R." provisions of the draft Charter to serve the purposes of the Agreement.

The result is to be seen in Articles XI to 14, which are contained in Part II of the Agreement. Article XI calls for the elimination of quantitative restrictions, but while the Agreement is being applied provisionally those that were in force by virtue of a mandatory enactment
may be retained. If new restrictions are imposed, or existing restrictions are intensified, for balance-of-payments reasons, the consultation procedures of Article XII must be observed. If, on the other hand, restrictions are desired for development purposes Article XVIII will operate. These procedures will be discussed in the following paragraphs.

Balance-of-payments Q.R.'s On the opening of the Third Session in April 1949, the Contracting Parties embarked upon their first consultation with one of their number which had instituted import restrictions in order to safeguard its external financial position and to stop a serious decline in its monetary reserves. The country concerned was the Union of South Africa,

Certain exchange restrictions, limiting the amounts of non-sterling currencies available for imports into South Africa, had been approved by the International Monetary Fund. But, on the import prohibitions on non-essentials, although they were not discriminatory, the South African Government was required by the provisions of Article XII to consult with the Contracting Parties. Those consultations are required to take place either before the restrictions are introduced or, if that is not practicable, immediately thereafter; they are intended to provide an opportunity to examine the nature of the balance-of-payments difficulties, the alternative corrective measures which may be available and also the possible effect of the restrictions upon the economies of other contracting parties.

The consultation covered the first restrictions of November 1948 and their extension in the following March, and it was then prolonged in the form of a "prior consultation" on the new scheme of restrictions to be introduced by South Africa in July 1949. The South African representatives participated in frank discussions covering a wide range: the balance-of-payments position, the implications of the new scheme for the trade of both hard and soft currency countries, the maintenance of traditional markets, the flow of capital to South Africa for the development of natural resources and the availability of new gold for the settlement of payments of the sterling and West European countries with the Western Hemisphere.

It was recognized that there was a further serious decline in South Africa's monetary reserves since the restrictions were first introduced, that the system of exchange quotas has failed to correct the disequilibrium in the balance of payments, and that South Africa intended to intensify its restrictions, particularly against imports from the sterling area. The South African representatives undertook to submit to their government the suggestions that had been put forward by contracting parties during the course of the consultation.

Economic Development Q.R.'s The Havana Charter when it enters into force will permit members of the ITO to maintain non-discriminatory protective measures imposed for purposes of development or reconstruction which were in force on 1 September 1947, subject to notification having been given by 10 October 1947 and to the submission of statements of considerations in support of such maintenance. The General
Agreement confers the same privilege upon contracting parties, five of whom gave notice of measures which they wished to maintain. (For the countries negotiating at Annecy, the terms of Accession fixed 14 May and 30 July 1949 as the dates for measures being in force and for the submission of notifications.) The examination of these measures and of the supporting statements, in accordance with the procedures of Article XVIII, was one of the principal tasks undertaken at the Third Session.

Article XVIII is intended principally, however, for contracting parties which wish to grant special assistance to promote the development or reconstruction of industry or agriculture. This involves release from a negotiated commitment or, alternatively, from other obligations of the Agreement. For the latter, the prior approval of the Contracting Parties must be obtained, though if certain criteria are fulfilled this approval cannot be withheld. One such application for "prior approval" was made to the Contracting Parties by Ceylon and has received their attention.

The examination of the measures in force in 1947 and of Ceylon's application to take new measures, was a most exacting task. The problems involved were studied in close association with the contracting parties whose measures were under consideration. Information was obtained between sessions by means of questionnaires and during the Third Session by direct discussion. Whether a measure had been introduced in the first instance to develop or simply to protect an industry and whether it fulfilled the other criteria of the Article was not always easy to determine.

The enquiries were long and detailed but eventually decisions were reached: Chile acknowledged that her measures fell more properly within the category of balance-of-payment restrictions and therefore withdrew her application; Syria-Lebanon made a similar acknowledgement for some of their measures and were granted a release for several others; to Cuba a release was granted for five years to develop the cultivation of an agricultural product; India obtained a qualified authorization to restrict the importation of an industrial product; and the United Kingdom agreed to withdraw certain restrictions on imports into Mauritius and Northern Rhodesia. As for the application of Ceylon for authority to restrict the importation of an extensive range of the products of secondary industry, it was decided to grant the desired release from obligations for most of the products and for others releases were granted subject to the satisfactory outcome of negotiations with interested contracting parties.
THE AGREEMENT IS NOT ENOUGH

The General Agreement has very well served its main purpose of establishing equality of treatment and of bringing about reductions and bindings of customs duties. In addition, it has brought together the principal trading countries for consultation on urgent problems of world trade. The Agreement performs many vital functions, and can assume more responsibilities in the future than have been undertaken thus far, but it could not be accepted with equanimity that the International Trade Organization should not be brought into being at all and that governments should rest content with the restricted facilities of the Agreement. To use an expression of the golf course, the Agreement misses no short putts but sinks no long ones.

By way of summing up the operation that has been reviewed in this Report, it will be useful to emphasize the Agreement's potentialities and limitations.

The potentialities of the Agreement

The value of the Agreement to the commercial community and to the world at large, even within the restricted scope of provisional application, has been amply demonstrated. It maintains most-favoured-nation treatment among the contracting parties. It provides the means by which tariffs can be further reduced. So far as new legislation is concerned the Agreement assures that national treatment will be accorded in matters of internal taxation and regulation and that contracting parties will not resort to the use of quantitative restrictions except for balance-of-payments reasons (and then not without consultation) or after obtaining approval for measures to promote economic development or reconstruction. Certain clearly defined principles will be observed in the valuation of goods for customs duty purposes and in the application of anti-dumping and countervailing duties. Unnecessary formalities and requirements in international trade will not be imposed, subsidies which prejudice the interests of contracting parties will be the subject of discussion, and rules designated to eliminate discriminatory treatment on the part of State-trading enterprises will be observed.

In the absence of an ITO the Agreement assumes an enhanced importance. It is the only international instrument of wider scope than such bodies as the Organization for European Economic Co-operation and the regional commissions of the United Nations' Economic and Social Council. It is now known that the ITO will not be established before 1950, and meanwhile it rests with the Contracting Parties to hold the fort for the eventual restoration of a world market by exercising a restraining effect on the imposition of new controls and on the intensification of existing restrictions, and by preventing the increase of tariffs and the spread of discrimination.
The Contracting Parties are aware of their responsibilities. Under the Agreement, they have assumed the obligation to act jointly if there is a persistent and widespread application of import restrictions indicating the existence of a general disequilibrium which is restricting international trade. They have undertaken, in those circumstances, to initiate discussions on how the underlying causes of the disequilibrium can be removed. Other organizations are concerned with this major issue; some are dealing with the monetary aspects and others are trying to solve problems peculiar to specific regions. But in the absence of an ITO the only body which may effectively represent trade interests on a world-wide basis is the group of countries which have bound themselves to observe the code of fair practice contained in the General Agreement.

The impressive bulk of the tariff bindings accepted at Geneva and Annecy is a solid foundation on which to rebuild a sound world economy. A continuation of the efforts to reduce tariff duties and gradually to eliminate other barriers to trade is one of the most practical contributions that could be made to a solution of the long-term problems of the day. During the tariff negotiations and in dealing with the questions arising at their sessions, the representatives of the contracting parties have had a unique opportunity of becoming familiar with each other's problems; this experience will be of great value when a general effort is made to attack the obdurate obstacles to world recovery.

The experience of the three sessions has led the Contracting Parties to the conclusion that the Agreement cannot operate effectively if it is treated as a traditional trade agreement. The questions to be considered jointly are numerous, complicated and often urgent. It is not practical or economical for governments to send high-ranking officials to attend a session of the Contracting Parties every year or every six months if this involves staying abroad for prolonged periods. Accordingly, the following arrangements have been made.

**Inter-sessional Arrangements** Each session of the Contracting Parties has been longer than the one before; the First Session lasted for three weeks, the Second was brought to a close after four weeks, but the Third Session was spread over a period of four months. At Annecy the Contracting Parties took action under several provisions of Part II of the Agreement and became involved in discussions requiring a great amount of information and preparatory work. During the course of the consultations on the South African restrictions and on the development measures notified under Article XVIII, it became evident that, if Part II of the Agreement were not to be replaced in the near future by the Havana Charter, it would be necessary to make special arrangements for many functions to be carried on between sessions. This course was rendered all the more imperative by the need to avoid a repetition of the circumstances which led to a large number of government representatives being engaged at Annecy in tasks of investigation and fact-finding.

Consequently, the Contracting Parties decided that the intervals between sessions should be used more effectively in preparing for consultations so that the work of the sessions could be confined to the examination of fully-prepared material. This decision has been implemented by arrangements for the Secretariat of the Interim Commission of the ITO to undertake the preparation of
information and documents for all questions that are to be discussed at the sessions of the Contracting Parties. In addition, plans were made at the Third Session for meetings of committees between sessions. If new restrictions for balance-of-payments reasons are imposed by any contracting party, an ad hoc committee can be appointed. For other consultations under Articles XII to XIV a standing committee has been appointed and can be convened at any time. Similarly, an Article XVIII Committee has been appointed to examine applications received between sessions.

The first indication that these arrangements are likely to be brought into operation in the near future was given before the close of the Third Session by the representatives of the United Kingdom, who drew attention to recent developments in the United Kingdom balance-of-payments position and to the intention of their government to introduce an extensive revision of their import programme.

The appointment of committees together with the arrangements for Secretariat assistance will result in a great deal of preparatory work being done between sessions so that the sessions themselves can be shortened and confined to their proper tasks. Thus the Agreement will be more efficiently administered and will better fulfil its important obligations.

Collaboration with the International Monetary Fund Preparatory Committee - and at Havana the representatives at the United Nations' Conference on Trade and Employment - consulted closely with officials of the Fund on all provisions of the ITO Charter relating to currency and the regulation of trade by quantity or value. The inter-dependence of the two organizations was never doubted, although each would have its own sphere of interest - the Fund being concerned with controls bearing upon the means of payment, and the ITO with restrictions imposed upon the quantities of goods that might be imported. Accordingly, the Charter provides that the two organizations

The position of contracting parties which are not members of the Fund requires a word of explanation. If there were no Fund, the substantive provisions of the Fund's Articles of Agreement would have to be written into the Charter and into the General Agreement to join the ranks of obligations safeguarding the value of the tariff concessions; hence it is essential that all contracting parties should be members of the Fund, or failing that, should assume obligations in respect of exchange stability and the use of exchange controls similar to those assumed by the members of the Fund. Accordingly, the Agreement provides that any contracting party which is not a member of the Fund, or which ceases to be a member of the Fund, shall enter into a special exchange agreement with the Contracting Parties. This received attention at the Second and Third Sessions and, in collaboration with representatives of the Fund, the test of an agreement was prepared to which contracting parties which are not members of the Fund will be required to subscribe.
will work closely together. It takes care to avoid a confusion of functions and a conflict of authority. On all matters affecting monetary reserves, balance of payments and foreign exchange arrangements, the ITO will be required to consult with the Fund and to accept the Fund's findings of statistical and other facts.

Similar provisions are included in the provisional part of the General Agreement. The Fund has been represented at each session of the Contracting Parties, but the examination of the South African import restrictions already described in this Report, was the first occasion requiring consultation on a matter closely affecting its interests. On questions which arise between sessions the Chairman has now been authorized to initiate consultations with the Fund, and at all inter-sessional meetings of committees in connection with balance-of-payments restrictions the Fund will be represented.

The limitations of the Agreement

Despite the new arrangements for inter-sessional work of the Secretariat and Committees and for close collaboration with the Fund, the Contracting Parties operate under two major disabilities. First, the Contracting Parties lack the assistance of an organization which could carry out the necessary research and preparatory work for their periodic sessions, and to pursue the work between sessions. This not only impairs the effectiveness and scope of what can be done but also imposes very heavy burdens on the representatives of Contracting Parties at the sessions. Secondly, since the Agreement is in force only provisionally it can only operate subject to existing legislation. The amendment of any such legislation which offends against the principles upon which the ITO will be founded cannot be enjoined until the Havana Charter is ratified. It also accounts for the length of the sessions which is a source of concern to the governments who can ill spare their experts for such long periods.

The need for the International Trade Organization

This Report has served a four-fold purpose. It has demonstrated the value of the General Agreement in bringing down tariff levels and it has indicated the place the Agreement may fill in dealing with some broader problems of world trade. In addition, it has disclosed the need for an organization fully equipped to take hold of the grave problems confronting world commerce, and has underlined the need for the enforcement of a Charter which provides for good-neighbourly behaviour and continuous consultation.
World trade is to-day facing a crisis of perhaps unprecedented gravity. Even now, four years after the end of the war, there is no sign of a restored equilibrium and present indications point to a deepening of the unbalance and a sharpening of the issues involved. Consequently, little progress has been made in the abolition of bilateral dealing by which the trade of many countries is now regulated. Thus the ultimate objective of the ITO to restore the multilateral pattern of world trade appears to be as far off as ever.

Since the Agreement was concluded in October 1947 the economic situation of the world has experienced a striking change: production has regained or exceeded pre-war levels and the post-war shortages have disappeared. In these circumstances it might have been expected that the maladjustment resulting from the war-time distortions would have been corrected. Apart from production, none of the major difficulties has been overcome and, in certain respects, the situation is worse than could have been contemplated in 1947. The dwindling supply of "hard" currencies has obliged governments to introduce or intensify import restrictions and to resort more extensively to bilateral trade arrangements. The Marshall Aid, which averted a catastrophe for the countries of Europe, contributed to the spectacular revival of production but did not lead to a rapid integration of European economies. Now, it seems far from certain that Europe will achieve "viability" by 1952.

To-day there is talk of recession. It is not impossible that the slump in prices of primary commodities will exceed the limits of a sound readjustment and force the raw material and agricultural countries to have recourse to new restrictive policies. A serious depression in manufacturing industry could conceivably let loose a deflationary trend against which all countries would be tempted to erect new barriers of trade restrictions. Depression is a cumulative process which gains momentum at an amazing speed. If there is no strong international organization enjoying sufficient authority to coordinate the policies of governments in an emergency and to limit the dire effects of a crisis, the hard-won structure of economic cooperation may be blown away. The individual reactions of governments inspired by the need to fend off, anyhow and at any cost, the damaging influence of external pressures might rapidly lead to economic warfare and to a persistent state of chaos a great deal worse than that of the nineteen-thirties.

The ratification of the Havana Charter will not solve these problems. But it would provide an agreed set of rules and principles as a basis upon which solution should be sought, and an international organization through which to work. If the Havana Charter remains in abeyance there is a real danger that much time may be lost in international discussion, in the re-discussion of principles which have been debated and redebated for several years. This debate established common ground on which representatives of 54 countries met.

There is to-day no alternative to the necessity to get to grips speedily and efficiently, and with all the means at the disposal of governments, with the fundamental problems of world trade. This task will be less formidable if governments proceed from the firm ground of the Havana Charter without engaging in further debate on basic principles.