

UNITED STATES TARIFF COMMISSION

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*Operation of the*  
**TRADE AGREEMENTS  
PROGRAM**

*June 1934 to April 1948*

*Part II. History of the  
Trade Agreements Program*

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*June 1934 to April 1948*

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PREPARED IN CONFORMITY WITH EXECUTIVE  
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**UNITED STATES TARIFF COMMISSION**

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## FOREWORD

This document constitutes part II of the Tariff Commission's report on the operation of the trade agreements program prepared in fulfillment of a directive of the President to the Tariff Commission under Executive Order 9832. Under this order the Tariff Commission is required to submit to the President and to the Congress at least once each year a report on this subject.

This report reviews the operation of the trade agreements program from its initiation on June 12, 1934, to April 1948. It covers all trade agreements completed during that period, including the General Agreement on Tariffs and Trade entered into at Geneva, Switzerland, October 30, 1947. It does not take account of certain developments since April, such as the renewal in June 1948 of the Trade Agreements Act with amendments. Nor does it take into account certain changes in the general provisions of the General Agreement on Tariffs and Trade which were made at the Conference held in Habana, Cuba, from November 21, 1947, to March 24, 1948.

With a view to assisting Members of Congress who had before them the question of extending the Trade Agreements Act, the Tariff Commission issued a preliminary draft of this report in April 1948. It was necessary as of that time to issue the report in preliminary form mainly owing to the fact that it was impossible to complete before that date a detailed analysis of the concessions received by the United States in the Geneva agreement. That analysis has since been completed.

The completed report consists of the following parts:

- Part I. Summary
- Part II. History of the Trade Agreements Program
- Part III. Trade-Agreement Concessions Granted by the United States
- Part IV. Trade-Agreement Concessions Obtained by the United States
- Part V. Effects of the Trade Agreements Program on United States Trade

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TRADE AGREEMENTS AND TRADE POLICY OF THE  
UNITED STATES BEFORE 1934

Agreements Relating Directly to Tariff Duties

The history of United States participation in trade-agreement negotiations directly affecting tariff duties is a long one. <sup>1/</sup> Some of the trade agreements made before 1934—like the agreements made since then under the Trade Agreements Act—were effectuated by Executive order under congressional authority which did not require subsequent congressional action. The authority of the President to make such agreements, however, was narrowly circumscribed. A number of agreements requiring congressional action also were negotiated by the President, but most of these failed to receive the necessary legislative approval and thus never came into effect.

The first reciprocal trade treaty negotiated by the United States was with the German Zollverein (Customs Union) in 1844. It never became effective, however, because of failure to receive Senate ratification. The first United States reciprocal trade agreement to become effective was with Canada. That agreement was negotiated by the President, ratified by the Senate, and approved by the Congress; it became effective in 1855 and remained in force until 1866, when it was terminated by the United States. <sup>2/</sup>

Reciprocity treaties were negotiated with Hawaii, one in 1855 and a second in 1867, but neither of these received the necessary Senate ratification. In 1875, however, a reciprocity treaty was finally negotiated and ratified. In the following year, the Congress passed the legislation necessary for putting it into effect. The treaty remained in force until Hawaii was annexed by the United States in 1898.

Reciprocity treaties were negotiated with Mexico in 1859, with Canada in 1875 and 1888, and with Newfoundland in 1868, but all these failed to receive the necessary Senate ratification.

The Tariff Act of 1890 was the first general tariff act of the United States to make systematic general provision for reciprocal negotiations relating to tariff rates as such. Under section 3 of that act, the President was empowered to enter into narrowly defined trade agreements not requiring subsequent approval of either the Senate or the Congress. As a sanction to put pressure on the

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<sup>1/</sup> For a detailed analysis of the United States commercial treaties which were negotiated before 1919, see U. S. Tariff Commission, Reciprocity and Commercial Treaties, 1919.

<sup>2/</sup> This agreement, like those subsequently entered into with Hawaii and Cuba, was preferential.

several countries to enter into these agreements, this section of the tariff act instructed the President to impose specified penalty duties on certain articles (coffee, tea, hides, sugar, and molasses) on the free list of the United States tariff whenever the supplying country's treatment of imports from the United States was deemed "to be reciprocally unequal and unreasonable." Under authority of that section of the tariff act, the President proclaimed agreements with the following countries:

Austria-Hungary	Great Britain (for	Honduras
Brazil	British West India	Nicaragua
Dominican Republic	Colonies)	Salvador
German Empire	Guatemala	Spain (for Cuba and Puerto Rico)

Concessions were obtained for American products from each of the foregoing countries in return for an assurance of continuing duty-free entry into the United States of their coffee, tea, hides, sugar, and molasses. In some agreements the other contracting party agreed to admit specified imports from the United States free of duty or at substantially reduced tariff rates; in others it agreed to extend most-favored-nation treatment <sup>2/</sup> regarding tariffs to all imports from the United States.

The penalty duties provided for in section 3 of the act of 1890 were applied to imports from Colombia, Venezuela, and Haiti, following failure of those states to respond favorably to United States invitation to negotiate an agreement under this provision of the tariff act.

The Tariff Act of 1894, which reimposed a duty on raw sugar (such a duty had been imposed by acts preceding that of 1890), automatically annulled all agreements which had been made under authority of this section of the 1890 act. No reciprocity provision was contained in the 1894 act.

The next series of trade agreements was negotiated under authority of the Tariff Act of 1897. Section 3 of that act empowered the President to negotiate agreements with foreign countries and to proclaim them without ratification by the Senate. This authority, though still narrowly circumscribed, was somewhat broader than that conferred by the corresponding section of the Tariff Act of 1890. The President was not only authorized, as before, to impose penalty duties on certain specified articles on the free list (the articles specified in the 1897 act were coffee; tea; tonquin, tonqua, or tonka beans; and vanilla beans), but he was permitted to proclaim prescribed reductions in duty on argols, distilled spirits, sparkling wine, still wine, paintings, drawings, and sculptures in exchange for concessions by the other countries. Under authority of this section, the so-called argol <sup>4/</sup> agreements were concluded with the following countries:

<sup>2/</sup> Most-favored-nation treatment is discussed in the next section of this chapter.

<sup>4/</sup> The name is derived from "argols" (a crude cream of tartar), which was the first item appearing in the enumerated list on which reductions in duty were authorized by section 3 of the Tariff Act of 1897.

Bulgaria	Great Britain	Portugal
France	Italy	Spain
German Empire	The Netherlands	Switzerland

These agreements were negotiated in two series. The first was concluded (during the McKinley administration) with France, Portugal, Germany, and Italy, and the second series (during the Theodore Roosevelt administration) with the other countries listed above. In exchange for the concessions granted by the United States, which consisted of small reductions in duty on one or more of the articles specified in the act (no use being made of the penalty provision), the participating foreign countries generally applied to all or a part of their imports from the United States their minimum or conventional rates of duty reserved for imports from "favored" nations. The argol agreements remained in effect until they were terminated under a provision of the Tariff Act of 1909. <sup>5/</sup>

Section 4 of the Tariff Act of 1897 gave the President broad authority to negotiate trade agreements with foreign countries for the purpose of securing concessions for American exports. That section permitted reductions of as much as 20 percent from the duties of the regular tariff schedules, the transfer of a limited group of articles from the dutiable to the free list, and the binding duty-free of articles then on the free list. Before any such agreement could become effective, however, ratification by the Senate and approval by the Congress were necessary. Pursuant to that authorization, the President negotiated agreements with the countries named below, but none of these agreements were ratified by the Senate.

Argentina	France
Denmark (for St. Croix)	Great Britain (for various colonies)
Dominican Republic	Nicaragua
Ecuador	

In 1902 a convention of commercial reciprocity was negotiated with Cuba. This convention provided for a reduction of 20 percent from regular United States duties on imports from Cuba and reductions of 20 to 40 percent from regular Cuban rates on imports from the United States. After the Senate ratified the treaty, the Cuban Government accepted it. The Congress finally passed enabling legislation and the treaty was formally proclaimed in 1903. This treaty was independent of the reciprocal provisions of the Tariff Act of 1897 and in no way connected with the treaties made under that act.

The Tariff Act of 1909 not only provided for terminating all outstanding reciprocity agreements to which the United States was a party—except the agreement with Cuba—but it also instituted a two-schedule tariff system. Under this system the free list and the rates in the general schedule constituted the minimum schedule; and the "minimum" rates plus 25 percent of the values of the imported articles constituted the maximum schedule. The President was authorized to extend the minimum schedule to countries which did not

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<sup>5/</sup> However, because of subsequent understandings, the agreement of August 1, 1906, with Spain was still in effect on November 5, 1922, when Spain gave 1 year's notice of its intention to denounce the agreement.

discriminate against the United States; the maximum rates were applicable to imports from all other sources. The Tariff Board, which had been created for this purpose under authority of the act itself, was required to investigate the tariff treatment accorded American products by foreign countries. Discrimination by several of them was discovered and negotiations with them were subsequently entered into for the purpose of eliminating the discrimination. Following these negotiations, proclamations were made applying the minimum rates to all countries. The maximum rates were, in fact, never applied to imports from any country, notwithstanding that certain countries—notably Germany and France—did not extend full equality of treatment to imports from the United States.

In 1911, a reciprocity agreement, with preferential treatment on both sides, was negotiated with Canada. It was approved by the United States Congress, but, inasmuch as it was not approved by the Canadian Parliament, it did not go into effect.

The Tariff Act of 1913 contained no provision for maximum and minimum schedules of duties, but it authorized the President to negotiate reciprocity agreements provided "That said trade agreements before becoming operative shall be submitted to the Congress of the United States for ratification or rejection." No agreements were negotiated by the President under that authority.

None of the subsequent general tariff acts made provision for the negotiation of trade agreements, with the result that the trade agreements next consummated by the United States were made under authority of the Trade Agreements Act of 1934. <sup>6/</sup>

#### Development of Most-Favored-Nation Trade Policy

Commercial treaties between states relate to an extensive variety of subjects having to do with the treatment to be accorded to persons, to means of communication and transportation, and to commerce. <sup>7/</sup> Specific provisions are made in these treaties for such matters as admission of diplomatic and consular officials; immigration and emigration; conditions of residence, travel, and trade; imposition of taxes; navigation, quarantine, and harbor regulations; patents, copyrights, and trade-marks; and tariffs and customs laws. The features of commercial treaties and agreements here under consideration relate principally to import and export trade, tariff duties, quotas, and customs laws and regulations.

Every state, in entering into a commercial treaty or agreement with another, seeks to gain or to retain certain advantages, to avoid certain disadvantages, or to accomplish both of these objectives.

<sup>6/</sup> Public Law 316 (73d Cong., 2d sess.), reproduced as appendix B.

<sup>7/</sup> For a detailed analysis of United States commercial treaties, see U. S. Tariff Commission, Reciprocity and Commercial Treaties, 1919.

The negotiation of a commercial treaty between states, therefore, usually involves "bargaining." In making its commercial treaties, a state may or may not seek a privileged position for itself. Most states, however, generally try to obtain treatment from other states which will be at least as favorable as that which those states grant to any other. Accordingly, every state generally asks for all the concessions and guaranties which the other negotiating state has already extended to third states or which it may extend to them in the future.

The most commonly used instrument for automatically assuring to newly contracting states the benefit of existing or future concessions accorded to third states is the so-called most-favored-nation clause. The purpose of this clause has been not to create but to guard against the creation of a "most favored" nation. This clause seeks to make accessible to the contracting parties all the advantages which either of them has granted, or at any future time shall grant, to any third state, i.e., to the "most favored" third state. The most-favored-nation clause has thus been used primarily to prevent the establishment of discriminations in the extending of concessions and guaranties.

Before the American Revolution, the most-favored-nation clause appearing in commercial treaties was not accompanied by any qualifications, i.e., no conditions were laid down concerning the circumstances under which benefits extended to third states would be extended by the contracting parties to each other. In the first American commercial treaty, that with France in 1778, this clause was qualified so as to make the extension of most-favored-nation treatment "freely," if the concession /to the third state/ was freely made, or, if the concession was "conditional," on the basis of the conditions of that concession. Since that time, the most-favored-nation clause has been used in trade treaties and agreements, sometimes with such a qualification and sometimes without it. When the clause appears without any qualifying stipulation, it is described as "unconditional"; when the clause provides for compensation in exchange for most-favored-nation treatment, it is described as "conditional."

The trade treaties which the United States entered into before 1923 generally provided for conditional most-favored-nation treatment, i.e., the United States agreed to grant most-favored-nation treatment in exchange for some specific concession to be received from the other contracting power. In actual operation, the conditional most-favored-nation policy was found to be a source of friction rather than an arrangement for eradicating discrimination; moreover, it proved to be ill-suited to a country which has a single-column tariff. The United States finally abandoned it in 1923, when President Harding approved adoption of the unconditional most-favored-nation clause in future commercial treaties.

Abandonment of the conditional form was foreshadowed with the legislative embodiment of the principle of equality of treatment in the Tariff Act of 1922 (sec. 317, reenacted as sec. 338 of the Tariff Act of 1930) authorizing the President to impose penalty duties on goods imported from countries found to be discriminating against the

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commerce of the United States. <sup>8/</sup> In 1923, Secretary of State Hughes announced this Government's new commercial practice to all diplomatic officers. The same general policy, first given formal expression in the commercial agreement negotiated with Germany in that year, has been pursued since that time.

Under the unconditional most-favored-nation clause, any concession which the United States now extends to any foreign country (excepting Cuba and the Philippines, for which preferences are authorized in all trade agreements) it extends to the country with which it makes an agreement or treaty, unconditionally and without restriction. Similarly, any concession granted by the other contracting country to any third country (often with certain specified exceptions) must be extended unconditionally and without reservation to the United States.

<sup>8/</sup> No action has been taken under this provision, but its presence may have had a deterrent effect on discriminations against this country.

## Chapter 2

### LEGISLATIVE HISTORY OF AND OPERATIONS UNDER THE TRADE AGREEMENTS ACT

1934-37

The Roosevelt administration, which came into power in 1933, was pledged to the reduction of the United States tariff, this having been an issue in the 1932 presidential campaign. On March 2, 1934, President Roosevelt sent a message <sup>1/</sup> to the Congress requesting authority to enter into executive commercial agreements with foreign nations for the reciprocal reduction of tariffs and other trade barriers. He proposed to use that authority "within carefully guarded limits to modify existing duties and import restrictions in such a way as will benefit American agriculture and industry." He stated that "a full and permanent domestic recovery depends in part upon a revived and strengthened international trade" and that "American exports cannot be permanently increased without a corresponding increase in imports." He pointed out that other governments were resorting increasingly to negotiated reciprocal trade agreements and he advocated that the United States do likewise in order to be "in a position at a given moment rapidly to alter the terms on which it is willing to deal with other countries." The delegation of a lesser degree of authority to the Executive, he stated, "would be ineffective." The executive branches of virtually all other major trading nations, he declared, "already possess some such power."

The President asked for the authority as "an essential step in the program of national economic recovery which the Congress has "elaborated" and as "part of an emergency program necessitated by

<sup>1/</sup> H. Doc. 273 (73d Cong., 2d sess.) reproduced as appendix A.

the economic crisis through which we are passing." He requested that authority be granted to make the proposed trade agreements terminable within a period not to exceed 3 years, stating that a shorter period "probably would not suffice for putting the program into effect." He stated, further, that the exercise of this authority "must be carefully weighed in the light of the latest information so as to give assurance that no sound and important American interest will be injuriously disturbed" as "the adjustment of our foreign-trade relations must rest on the premise of undertaking to benefit and not to injure such interests."

The reciprocal trade agreements bill was introduced at a time when the United States and the other important trading countries of the world were suffering from the severe economic crisis which had enveloped the world in the 1930's. Under the impact of that depression, tariff duties were generally increased throughout the world, and multilateral trading on a nondiscriminatory basis was abandoned by many countries. As one country after another went off the gold standard, many currencies depreciated in value or their par was reduced by devaluation, foreign exchange rates lost their stability, and many currencies of the world ceased to be freely convertible into one another.

In these circumstances, each country considered itself justified in adopting independently of all others—and without regard to the repercussions upon them—any measures which seemed appropriate to counteract pressure on its balance-of-payments position and to offset deflationary price trends. Numerous devices, such as exchange control, quantitative trade restrictions (particularly those fixing import quotas), increased preferences within empires, state trading, and devaluations of currency, were employed to achieve these objectives. Bilateral trading agreements were resorted to very widely, as providing means of exchange for countries lacking adequate reserves of gold and foreign currencies. Bilateralism also held an appeal for countries which, like Germany, were intent upon using it for political ends and for imposing harsh barter terms upon weaker trading nations.

Bilateralism was usually associated with a host of other discriminatory trade practices, the aggregate effect of which was to disrupt the interdependence of price structures in a large part of the world and to cause a decline in the volume of international trade. The trend in that direction was accentuated by the efforts of some countries to become more nearly self-sufficient in order to adjust their economies to the purposes of aggressive warfare or to defense against such warfare.

The general increase in tariff duties and tariff preferences and the adoption of other trade-restrictive measures by virtually all important trading countries operated to shrink further an international trade already declining because of the depression. The volume of world trade in 1933, as pointed out by President Roosevelt in his message to the Congress on March 2, 1934, <sup>2/</sup> was only 70 percent of the volume in 1929; and the corresponding value was only 35 percent, prices having fallen sharply. The decline in this country's foreign trade was even more precipitous. United States exports

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<sup>2/</sup> Ibid.

in 1933 were only 52 percent of the volume, and 32 percent of the value, of the exports in 1929; the corresponding ratios for imports were 66 and 33 percent, respectively. Especially serious was the shrinkage in foreign markets for agricultural products, resulting in accumulation of huge stocks of these products in the United States.

The President's message of March 2, 1934, requesting authority to enter into executive commercial agreements with foreign nations, was transmitted to the House of Representatives simultaneously with the administration's trade agreements bill. In general, the provisions of the bill paralleled those of the message, but the bill also contained some provisions to which no reference had been made in the message. The most important of these was the provision for unconditional most-favored-nation treatment, i.e., the bill provided that all trade concessions granted by the United States to any country should be extended (except in specified exceptional circumstances) to all other countries.

The President's message was discussed and the administration bill was debated at hearings before the House Ways and Means Committee and the Senate Committee on Finance, in both houses of Congress, in the press, over the radio, and in public forums. The majority and minority reports of the House Committee on Ways and Means <sup>3/</sup> received considerable publicity.

Inasmuch as the trade agreements program was presented as an emergency measure designed to secure foreign outlets for surplus American products, to combat unemployment, and to revive foreign trade, congressional and public debate centered principally on whether tariff reductions were appropriate means of achieving these objectives. The majority report of the House Committee on Ways and Means, which strongly recommended adoption of the program, declared that there was a direct causal relationship between the shrinkage of world trade and the depression. It declared further that expansion of United States exports was a prerequisite to the restoration of our prosperity.

The minority report questioned the premises on which the message of the President and the majority report were based, and it enumerated a long list of objections to the bill. The minority report expressed the view that the decline in international trade was the effect rather than the cause of the depression, and that the importance of export trade to the American economy had been exaggerated. That trade, in 1929, the minority report stated, accounted for only one-tenth of the value of total domestic production of movable goods and for only one-seventeenth of the national income. The minority report also expressed fear that the increased volume of imports which would result from reductions in duty might seriously injure certain domestic industries and thus worsen rather than ameliorate an already unstable domestic situation. The proposed method of bargaining and the plan of generalizing concessions unconditionally were also criticized, principally on the score that they gave no assurance that increased purchases by the United States from an agreement country would result in a corresponding increase in United States sales to that country. The minority report also expressed the view that the power requested

<sup>3/</sup> H. Rept. 1000 (73d Cong., 2d sess.), Mar. 17, 1934.



by the Executive was excessively broad and would be unconstitutional. The proposed trade agreements would in fact be treaties, the minority report held, and as such would require approval by two-thirds of the Senate.

After some 4 months of hearings and intensive debates, the Congress finally passed the Trade Agreements Act, and the President signed it on June 12, 1934. The House of Representatives had approved it on March 29, 1934, by a vote of 274 to 111; and the Senate on June 4, 1934, by a vote of 57 to 33.

In formulating the purposes of the Trade Agreements Act, the Congress explicitly declared the program to be an emergency measure intended primarily to assist in alleviating the pressure of surplus products on the domestic market. The primary objective, it was stated, was to promote United States exports by reducing barriers to, and facilitating the increase of, United States imports contingent upon reciprocal reductions in barriers by other countries. The authority to enter into trade agreements under the act was initially limited to 3 years, and the act provided that every agreement concluded under it should be subject to termination at the end of not more than 3 years after coming into effect. Reductions in duty made under the act were to be limited to 50 percent of the "existing rate of duty."<sup>4/</sup>

Although much of the support for the Trade Agreements Act came from consumer groups, savings to consumers were not among the expressed purposes of the act, and concessions made only with a view to such benefits would be outside the authority of the act. To make possible service on or repayment of foreign debts owed the United States likewise was not among the ends set forth in the act.<sup>5/</sup>

Adoption of the trade agreements program marked an important change in American commercial policy. The program gave official recognition to foreign trade as an important element in domestic prosperity and in securing a well-balanced relationship among the various components of the domestic economy. Expansion of exports was predicated upon the expansion of imports, and finally, the principle of nondiscrimination as between countries, through guaranty of most-favored-nation treatment, was again given full and unreserved expression. Application of the principle, moreover, acquired new practical significance: for the first time it was linked with an active tariff-bargaining policy.

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<sup>4/</sup> This language is vague, but it was obviously intended to preclude repeated reductions by successive agreements which would result in an aggregate reduction of more than 50 percent from the rate fixed by existing (or future) statute or proclamation under sec. 336 of the Tariff Act of 1930.

<sup>5/</sup> However, to the extent that trade agreements were employed to secure equitable allocations of foreign exchange from debtor countries, the agreements did directly serve to facilitate service and repayment of such debts. Moreover, any increase in imports from a debtor country resulting from concessions by the United States would have that effect.

## TRADE AGREEMENTS PROGRAM TO APRIL 1948

During the 3 years for which the authority to make trade agreements was originally granted to the President (1934-37), 16 trade agreements were concluded with 17 countries. The agreements were concluded in the following order:

Cuba	The Netherlands
Brazil	Switzerland
Belgium and Luxembourg	Nicaragua
Haiti	Guatemala
Sweden	France
Colombia	Finland
Canada	Costa Rica
Honduras	El Salvador

The agreement with Cuba, unlike that with any of the other countries, was preferential. Probably the most far reaching of the agreements concluded during this period was the one made in 1936 with Canada. In addition to the trade agreements consummated in this period, negotiations (accompanied by the usual public hearings) were carried to a fairly advanced stage with both Spain and Italy but could not be concluded; later both of these negotiations were formally terminated.

## 1937-40

In 1937, after extensive hearings, the Congress renewed the Trade Agreements Act in its original form for a 3-year period ending in June 1940.

The arguments advanced in 1937 for and against renewal of the Trade Agreements Act closely resembled the arguments advanced when the original act was under consideration. This circumstance is explained largely on the score that the world-wide depression, though considerably alleviated, persisted throughout the life of the original act. Important factors other than the trade agreements program were operating during that period to increase the difficulty--always a formidable one--of isolating and evaluating the effects of the program itself on United States import and export trade. The severe droughts in 1934 and 1936, which affected wide areas of the United States, had an especially important bearing on United States trade, particularly in agricultural products.

The period 1937-40 was one in which momentous changes occurred throughout the world. Affected by preparation for war and actual war abroad and by defense activities at home, the depression in the United States lifted: exports rose, surplus stocks dwindled, and unemployment declined. Japan extended its zone of military operations in the Far East over a wider area. During the earlier part of the period Germany's actions were already threatening to precipitate war in Europe; by the end of the period, Germany had overrun several countries and was obviously seeking, in alliance with others, to conquer the world.

Throughout 1937-40, the trade agreements program continued to be advocated primarily as a means of promoting exports. Increasing emphasis was placed on the purpose of securing nondiscriminatory treatment for United States exports.

During the period of the first extension of the trade-agreement authority, agreements were negotiated with seven countries as follows:

Czechoslovakia	Turkey
Ecuador	Venezuela
United Kingdom	Cuba
Canada	

The most important agreement in the group was with the United Kingdom. The agreement with Canada greatly expanded and superseded the 1936 agreement with that country. The agreement with Cuba was supplementary to the earlier agreement with that country.

#### 1940-43

In 1940, when the Executive again requested a renewal of the Trade Agreements Act, the European war was the principal factor governing this country's foreign-trade relationships. A number of Congressmen, as well as other persons, therefore questioned whether continuation of a program originally conceived to promote exports and to reduce unemployment could achieve beneficial results under the radically altered circumstances. Secretary of State Cordell Hull, in testifying before the Senate Finance Committee on February 26, 1940, <sup>6</sup> sought to dispel any such doubts. He stated:

If we were now to abandon the program, we would reduce to practically nothing the efficacy of the existing trade agreements as a means of safeguarding our exports from the inroads of wartime restrictions. The need for keeping alive the principles which underlie the trade-agreements program is crucial now, during the war emergency, and will be of even more decisive importance after the war. Even a temporary abandonment of the program now would be construed everywhere as its permanent abandonment. Unless we continue to maintain our position of leadership in the promotion of liberal trade policies, unless we continue to urge upon others the need of adopting such policies as the basis of postwar economic reconstruction, the future will be dark, indeed. The triumph or defeat of liberal trade policies after the war will, in large measure, be determined by the commitments which the nations will assume between now and the peace conference.

Opponents of the program rejected the thesis that it was an instrument for promoting international cooperation in the field of foreign trade. They argued that the scope of the program had been enlarged far beyond that originally intended and that for this reason the Congress should exercise closer supervision over its operation.

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<sup>6</sup> U. S. Congress, Senate Committee on Finance, Extension of Reciprocal Trade Agreements Act, Hearings on H. J. Res. 407 (76th Cong., 3d sess.), 1940, rev., p. 16.

They objected particularly to the fact that the trade-agreement authorities had reduced not only the duties imposed by the tariff act but also the excise taxes imposed on the importation of certain commodities (taxes which were held by the judiciary to be duties) in the Revenue Acts of 1932 and 1934. They objected also to the binding of items on the free list, to guaranteeing that no quotas would be imposed on imports of articles covered by trade-agreement concessions, to the binding of internal excise taxes against increase, and to agreement not to subject certain products to internal excise taxes. Special criticism, moreover, was made of the practice of generalizing trade concessions in accordance with the most-favored-nation principle, the direct consequence of which, they stated, was to inflict serious harm on a number of domestic industries.

The administration of the trade agreements program was strongly defended against these and other criticisms in the hearings before congressional committees and in the debates in the two houses of Congress. The unconditional most-favored-nation principle was in particular vigorously defended. The majority report of the House Committee on Ways and Means described it as the "antithesis of the policy of discrimination which leads to retaliation, trade wars, and general anarchy in international commercial relations." <sup>7/</sup> This report stated further that the principle "has not been, and should not be, a subject of partisan controversy. It has been advocated and applied by Republican as well as Democratic administrations."

Congress again extended the Trade Agreements Act in its original form for a 3-year period ending in June 1943.

During the 3 years 1940-43, United States foreign-trade relations were dominated principally by military considerations, especially after December 7, 1941. <sup>8/</sup> World-wide hostilities seriously disorganized the economic structure of many countries, both belligerent and neutral; commercial intercourse between enemy countries was stopped; and the foreign trade of many neutral nations came under the control of either or both of the belligerent groups.

During the period that the second renewal of the Trade Agreements Act was in force (1940-43), the United States entered into agreement

<sup>7/</sup> H. Rept. 1594 (76th Cong., 3d sess.), p. 41.

<sup>8/</sup> Even before the United States formally became a belligerent, it supplied munitions of war under the Lend-Lease Act (March 11, 1941) to those countries which were "actively engaged in resisting aggression." And on January 1, 1942, the United States and each of the 25 other countries comprising the United Nations not only subscribed to the principles set forth in the Atlantic Charter (August 14, 1941) but also pledged inter alia "to employ its full resources, military or economic, against those members of the Tripartite Pact and its adherents with which such government is at war."

with the following seven countries: <sup>9/</sup>

Canada	Uruguay
Argentina	Mexico
Cuba	Iran
Peru	

The trade agreements with both Canada and Cuba were supplementary to the prior agreements with those countries. That with Canada related to only one product, silver fox furs.

1943-45

The question of further extension of the trade-agreement authority came up again in 1943 in the midst of the war and received greater congressional support than in 1934, 1937, or 1940. The opponents of extension continued to advocate that trade agreements should require approval of Congress and to urge amendments limiting the authority of the President in various ways. As in preceding renewals, there was much debate on proposals made to require use of difference in cost of production for determining maximum reductions in duties and to forbid reductions in duties on agricultural imports whenever competitive domestic products were selling below "parity" prices.

At this time, confidence in ultimate military victory over the Axis powers was strengthening, but it was accompanied by concern over the unpredictable economic conditions which would confront the United States when hostilities ended. As a consequence, proposals were made to relate the termination of trade agreements to the end of the war. Another proposal was to make trade agreements revocable by joint resolution of Congress. <sup>10/</sup> The act was finally renewed in its original form, except for one minor amendment, <sup>11/</sup> but only for a 2-year period, in contrast to the 3-year periods for which it had previously been extended. The act was now to expire in June 1945.

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<sup>9/</sup> After the Japanese attack on Pearl Harbor in 1941, Secretary of State Hull revealed that on November 26, 1941, the United States had proposed to Japan a comprehensive agreement which provided inter alia: that Japan withdraw all military and police forces from China and Indochina; that neither the United States nor Japan support any government or regime in China other than the National Government of the Republic of China; that both governments give up all extraterritorial rights in China; and that the United States and Japan "enter into negotiations for the conclusion...of a trade agreement, based upon reciprocal most-favored-nation treatment and reduction of trade barriers by both countries, including an undertaking by the United States to bind raw silk on the free list" (Department of State Bulletin, vol. 5, Dec. 12, 1941, pp. 462-464).

<sup>10/</sup> U. S. Congress, Senate Committee on Finance, Extension of Reciprocal Trade Agreements Act, Hearings on H. J. Res. 111 (78th Cong., 1st sess.), 1943, rev., p. 9.

<sup>11/</sup> This amendment is described in chapter 4 of this section of the report.

## TRADE AGREEMENTS PROGRAM TO APRIL 1948

Negotiation of trade agreements during 1943-45 was, as might be expected under war conditions, virtually at a standstill. Only one new agreement, that with Iceland, was negotiated. The agreement with Iran also came into effect during this period although it had been concluded previously.

## 1945 to Negotiations at Geneva in 1947

When the Trade Agreements Act was considered for renewal in 1945, Germany's military operations had already collapsed, and Japan was meeting with major reverses. With the end of hostilities in sight, Congress began to give serious thought to the problems of peace.

It was apparent that Germany and Japan, important trading nations before the war, would not provide large-scale exports for some time to come. The export potentialities of other highly industrialized countries also had suffered under the strain of war. In contrast, the United States had greatly expanded its production capacity during the war and would be obliged, if serious economic dislocations were to be avoided, to maintain high production after hostilities ceased.

At this time the United Nations Conference in San Francisco (April 25 to June 26, 1945) was laying plans for the establishment of an organization for the maintenance of world peace. The United States and the other countries comprising the United Nations were pledging themselves, among other things, to cooperate in establishing economic conditions favorable to maintenance of international peace and security. <sup>12/</sup>

President Roosevelt, in one of his last messages to Congress, strongly recommended renewal of the Trade Agreements Act, stating that "we cannot succeed in building a peaceful world unless we build an economically healthy world." <sup>13/</sup> The House of Representatives Special Committee on Post-War Economic Policy and Planning (Colmer Committee) recommended not only renewal of the Trade Agreements Act, but also a broadening of the President's authority under it. Congressional debate was directed largely to the request of the President for broadened authority to reduce duties and to certain proposed amendments to provide for new limitations on the authority previously granted.

Much of the Executive's bargaining power had been used up in the 11 years of negotiation under the authority granted in the original Trade Agreements Act. The maximum allowable reductions in duty had been made on over 40 percent of United States dutiable imports (as of 1939), and smaller reductions had been made on more than 20 percent of such imports. Authority to offer additional concessions would be necessary, it was argued, if extensive further concessions were to be obtained.

<sup>12/</sup> This pledge was formally undertaken when the United Nations Charter was signed by the United States and 49 other nations on June 26, 1945. (Poland, one of the original members of the United Nations, signed on October 15, 1945.)

<sup>13/</sup> Congressional Record, vol. 91, pt. 2 (79th Cong., 1st sess.), Mar. 26, 1945, p. 2793.

Assistant Secretary of State Clayton, in his testimony before the House Ways and Means Committee, <sup>14/</sup> emphasized the importance of the program as a vehicle for expanding trade through private enterprise. Unless economic liberalism and the institution of private enterprise are retained by the majority of nations, multilateral trading, he asserted, is likely to be superseded by economic blocs and systems of governmental barter, both of which would tend in the long run to contract international trade and both of which are "contrary to our deepest convictions about the kind of economic order which is most conducive to the preservation of peace."

Congress again renewed the Trade Agreements Act, this time for a 3-year period to end in June 1948. For the first time, the act was amended in important respects, the principal change being to authorize the President to base tariff concessions on the rates in force on January 1, 1945, many of which had already been reduced by trade agreements. A detailed description of all the amendments made in 1945 is given in chapter 4 of this part of the report.

In the discussion which preceded the extension of the Trade Agreements Act with authority further to reduce duties, considerable attention was centered on the question of adequate safeguards for domestic producers in the event of further duty reductions, especially in view of the uncertainties of the postwar period. Spokesmen for the administration assured congressional committees that the effort had always been made to avoid serious injury to domestic industries and to afford adequate safeguards but that, going further, all future trade agreements under the act would contain a comprehensive "escape clause" similar to that which had been included in the trade agreement made with Mexico in 1942. This clause was interpreted to permit not only the withdrawal of a concession granted but also the modification of a concession, by imposing quota limitations on imports, or otherwise, when found necessary to prevent or remedy serious injury to domestic producers. Just before the United States, under authority of the act as amended in 1945, began tariff negotiations at Geneva, the President, in Executive Order 9832, issued February 25, 1947, established the specific requirement that in every agreement thereafter entered into under the authority of the act, an escape clause of this character should be included. <sup>15/</sup>

Before the negotiation of the multilateral trade agreement in Geneva in 1947, only one new amendment was concluded under the Trade Agreements Act as amended in 1945—the agreement with Paraguay signed in September 1946 and made effective in April 1947.

<sup>14/</sup> U. S. Congress, House Committee on Ways and Means, 1945 Extension of Reciprocal Trade Agreements Act, Hearings on H. R. 2652, superseded by H. R. 3240 (79th Cong., 1st sess.), 1945, vol. 1, rev., p. 20.

<sup>15/</sup> A fuller discussion of the "escape clause" and Executive Order 9832 is given in chapter 4 of this section of the report.

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Chapter 3

THE GENEVA NEGOTIATIONS AND OTHER RECENT  
INTERNATIONAL EFFORTS TO REHABILITATE  
WORLD TRADE

In November 1945 the United States Government published and transmitted to other governments for their consideration the document Proposals for Expansion of World Trade and Employment.<sup>1/</sup> These proposals, which were developed by a technical staff within the Government of the United States, were intended for consideration by an international conference on trade and employment. They called for the establishment of an international trade organization of the United Nations, suggested the structure for such an organization, and laid down procedures for reducing tariffs and for abolishing, so far as practicable, tariff preferences and nontariff barriers to the flow of trade between countries. On December 13, 1945, the United States Government announced that it had followed this document up by inviting 15 other countries (Australia, Belgium-Luxembourg, Brazil, Canada, China, Cuba, Czechoslovakia, France, India, Netherlands, New Zealand, Union of South Africa, Soviet Union, and the United Kingdom) to meet with it "to prepare projects for consideration" by a general international conference on trade and employment and to negotiate with each other for the reciprocal reduction of tariffs and the elimination of tariff preferences.

The proposed tariff negotiations and the proposed charter for an international trade organization were part of a broad program designed to rehabilitate the world trading system, which had been largely disrupted by the war, and represented the culmination of a long series of international efforts to that end initiated by the United States Government. The history of these efforts is briefly set forth below.

The Atlantic Charter and Lend-Lease Agreements

The Atlantic Charter, proclaimed in August 1941 by President Roosevelt and Prime Minister Churchill, pledged their respective governments to assist all states on equal terms (but with due regard to existing obligations) and to obtain access to the trade and raw materials of the world essential to their economic prosperity. Subsequently all the other countries which joined the United Nations during the continuance of hostilities joined in this pledge.

Under the lend-lease program, which became effective on March 11, 1941, the United States and various other members of the United Nations committed themselves to broad proposals for the reduction of trade barriers. In article VII of each of the master lend-lease agreements executed between the United States and various other members of the United Nations, the governments concerned agreed that, in the final settlement for lend-lease aid, provision should be included for agreed action directed to the expansion of employment and of the exchange

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<sup>1/</sup> U. S. Department of State, Commercial Policy Ser. 79, pub. 2411, 1945.



and consumption of goods, to the elimination of discriminatory treatment in international trade, to the reduction of tariffs and other trade barriers, and to the attainment of the other objectives of the Atlantic Charter.

#### The United Nations and Subsidiary Organizations

Chapters IX and X of the United Nations Charter, adopted in June 1945, created the Economic and Social Council, one of the main functions of which is to promote international economic cooperation. <sup>2/</sup> Subsidiary organizations of the United Nations likewise obligated member countries to participate in various programs of economic collaboration. For example, when the Food and Agriculture Organization was established, members of the United Nations agreed to cooperate, after the cessation of hostilities, in programs to maintain open channels of world trade.

#### The International Monetary Fund and the International Bank for Reconstruction and Development

Following the Bretton Woods Conference in July 1944, the International Monetary Fund and the International Bank for Reconstruction and Development were created. Members of the Monetary Fund agreed, in effect, to assist one another in reducing or avoiding monetary disturbances and in making the currencies of the member nations freely convertible into one another. The resources of the Monetary Fund were not available to finance capital investments or long-term transactions; that type of assistance was to be rendered by the International Bank for Reconstruction and Development, which was authorized to extend credits for the purpose of promoting the post-war reconstruction and rehabilitation of national economies and their orderly development thereafter.

#### Proposed Charter for an International Trade Organization

During the war years various interdepartmental committees, composed of United States Government officials and experts having to do with foreign-trade policies, devoted much time to consideration of how to reestablish world trade after the war on a multilateral basis and how to eliminate the arbitrary restrictions, discriminations, and barter arrangements which had grown up in that period and during the depression of the 1930's. These interdepartmental committees envisaged the creation of an international trade organization for this purpose and prepared a tentative draft of a charter for such an organization. This draft was made the subject of discussions with representatives of the United Kingdom during the progress of the negotiations which resulted in the "Anglo-American Financial and Commercial Agreements" of 1945. <sup>3/</sup>

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<sup>2/</sup> See articles 55 and 56 of the Charter of the United Nations.

<sup>3/</sup> Department of State Pub. 2439 (Commercial Policy Ser. 80), 1945. This includes joint statements on commercial policy, lend-lease, and other matters, as well as the Anglo-American Financial Agreement (loan agreement), for which see also Treaties and Other International Acts Series 1545 (Department of State Pub. 2676), 1946.

The financial agreement provided not only that the United States would extend a line of credit (of \$3,750,000,000) to assist the United Kingdom in meeting its postwar balance-of-payments difficulties, but also that the two governments would support a program designed to promote a more rapid transition from controlled bilateral to free multilateral trading. The principles to be included in such a program were incorporated by the State Department in the United States Proposals for the Expansion of World Trade and Employment, to which reference has already been made. The British Government declared itself to be "in full agreement on all important points in these proposals and accepts them as a basis for international discussion." <sup>4/</sup>

As the suggestion of the United States for the establishment of an international trade organization was favorably received by most members of the United Nations, the Economic and Social Council in February 1946 undertook, on motion of the United States, to sponsor the International Conference on Trade and Employment envisaged in the United States Proposals. The Council set up a Preparatory Committee which was to arrange for the Conference, to draft an agenda for its deliberations, and to prepare a draft charter for the proposed organization. The 20 countries invited to serve on that committee were Australia, Belgium-Luxembourg, Brazil, Canada, Chile, China, Cuba, Czechoslovakia, France, India, Lebanon (on behalf of the Lebanon-Syrian Customs Union), the Netherlands, New Zealand, Norway, the Union of South Africa, the Soviet Union, the United Kingdom, and the United States. This list comprised the 15 countries which the United States had originally invited to participate in a trade conference plus 4 others (Chile, Lebanon, Syria, and Norway). All except the Soviet Union accepted the Council's invitation.

The first session of the Preparatory Committee convened in London in October 1946. In preparation for this meeting, the United States Department of State issued in September the document Suggested Charter for an International Trade Organization of the United Nations. This document, which was adopted as a basis for discussion at the London conference, was an elaboration of the Proposals for Expansion of World Trade and Employment issued earlier. The draft charter which emerged from the London session was a substantial revision of the suggested charter and in particular included an entirely new chapter on economic development. With respect to certain articles of the suggested charter, however, no decision was reached.

Before the close of its first session the Preparatory Committee appointed a drafting committee to make further alterations in the draft charter. As a result of the labors of this drafting committee in New York during January-February 1947, there emerged the New York draft, which was taken as a basis for discussion at the second session of the Preparatory Committee which met in Geneva in April 1947. At that meeting, after more than 4 months of discussion and a series of compromises, a new draft embodying many alterations and changes was

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<sup>4/</sup> "Proposals on World Trade and Employment: Joint Statement by the United States and the United Kingdom," Department of State Bulletin, vol. 13, Dec. 9, 1945, p. 912 (State Department Press Release No. 905, Dec. 5, 1945).

prepared for submission to the United Nations Conference on Trade and Employment which met in Habana, Cuba, on November 21, 1947. The Conference completed its work March 24, 1948, after making further revisions and completing the charter.

#### Trade Negotiations at Geneva in 1947

The United States invitation issued in December 1945 to 15 countries was not only to prepare projects for consideration by a general international conference on trade and employment but also to negotiate, both with the United States and with each other, for the reduction of tariffs and the elimination of tariff preferences on specific commodities.

The Preparatory Committee, at its first session in London, adopted a resolution recommending to the governments concerned that the tariff negotiations to which the United States had issued invitations be held under the sponsorship of the Preparatory Committee as a part of its second session. It also recommended procedures for carrying through the negotiations in such a way as to give effect "to certain provisions of the charter of the International Trade Organization by means of a general agreement on tariffs and trade among the members of the Preparatory Committee." <sup>5/</sup> These recommendations were accepted; accordingly tariff negotiations were conducted at Geneva (April-October 1947) as a part of the second session of the Preparatory Committee for the United Nations Conference on Trade and Employment.

The results of the negotiations on tariff and tariff preferences were included in a General Agreement on Tariffs and Trade, which also included general provisions, most of them similar to the corresponding provisions in the Geneva draft of the proposed Charter for an International Trade Organization. <sup>6/</sup> The negotiations, however, were conducted largely on a bilateral basis. The United States, for example, conducted separate negotiations with each of the other countries represented on the Preparatory Committee. The 19 countries (including the United States) on this Committee commenced negotiations with each other as 16 so-called negotiating units, one of these being the Benelux Customs Union (Belgium, Luxembourg, and the Netherlands) and another the Lebanon-Syrian Customs Union. During the course of the negotiations, however, the number of negotiating units was increased by four: Burma, Ceylon, and Southern Rhodesia, for whom negotiations were initially conducted by the United Kingdom, and Pakistan, which came into existence during the course of the negotiations. Thus, in all, 23 countries, including the United

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<sup>5/</sup> Report of the First Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, London, 1946, p. 48.

<sup>6/</sup> The primary purpose of the general provisions in the General Agreement, as well as of the general provisions in trade agreements made under the Trade Agreements Act prior to the Geneva negotiations, was to safeguard the tariff concessions made in the agreements. The general provisions in trade agreements are discussed in chapter 6 of this part of the report.

States, signed the final act authenticating the text of the General Agreement on Tariffs and Trade. So far (April 1948), however, only 9 countries have signed the Protocol of Provisional Application and put the agreement into effect provisionally, subject to termination on 60 days' written notice. <sup>7/</sup>

The principal reason advanced for conducting tariff negotiations simultaneously with a number of countries was that such procedure seemed to give promise of securing a greater and more prompt relaxation of trade barriers the world over than would be possible under the trade-agreement procedures previously employed. It was thought that the willingness and ability of individual countries to reduce trade barriers, eliminate preferential and other discriminatory trading practices, and renounce barter arrangements would generally depend on the willingness of others to take corresponding action and that simultaneous negotiations would provide an opportunity for each participating country to exploit its bargaining position more fully in dealing, for example, with two or more countries interested in a concession on the same or similar terms. Moreover, it was believed that the proposed negotiating procedure would facilitate simultaneous change in duties on related items in the tariff schedule, a practice not generally possible in ordinary bilateral negotiations. It was recognized, however, that the simultaneous negotiation procedure had certain disadvantages, the principal one being that successful negotiation by each pair of countries might be contingent upon the success of the negotiations as a whole.

So far as the United States was concerned, the negotiations conducted at Geneva were under the authority of the Trade Agreements Act, as amended, and in accordance with the procedures established thereunder. As a necessary preliminary to participation in these negotiations, the United States Department of State announced formally in November 1946 that the United States intended to participate in the aforementioned trade negotiations in Geneva in the following year. The formal public announcement contained a list of the items in the United States tariff schedule on which this Government was prepared to consider granting tariff concessions.

Public hearings were conducted in Washington, D. C., from January 13 to January 31, 1947, <sup>8/</sup> for the purpose of giving interested parties an opportunity to make representations concerning the proposed negotiations. Actual trade negotiations began in Geneva on April 10, and continued until October 30, 1947, when the final act authenticating the multilateral agreement was signed by the United States and the other participating countries. The manner in which the negotiations were conducted and the results of the negotiations are described in later sections of this report.

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<sup>7/</sup> This protocol is discussed in chapter 6 of this part of the report. Czechoslovakia, the tenth nation to sign, did so on March 21, 1948, putting the agreement into effect provisionally on April 21, 1948.

<sup>8/</sup> Supplementary hearings were also held in Washington, D. C., on February 6 and on March 20, 1947.

LEGISLATION AND EXECUTIVE ORDERS PERTAINING  
TO TRADE AGREEMENTS

Trade Agreements Act of 1934

The original Trade Agreements Act, <sup>1/</sup> which went into effect June 12, 1934, was an amendment to the Tariff Act of 1930. That amendment became section 350 under title III, part III, of the tariff act, a part entitled "Promotion of Foreign Trade."

The Trade Agreements Act, according to its preamble, was enacted "for the purpose of expanding foreign markets for the products of the United States." This purpose was sought—

as a means of assisting in the present emergency in restoring the American standard of living, in overcoming domestic unemployment and the present economic depression, in increasing the purchasing power of the American public, and in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce . . .

The expansion of foreign trade was to be accomplished—

by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States . . .

To carry out the purpose of the act by the prescribed means, the Congress authorized the President of the United States—

(1) To enter into foreign trade agreements with foreign governments or instrumentalities thereof; and (2) to proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and for such minimum periods, of existing customs or excise treatment of any article covered by foreign trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder.

Authority was conferred upon the President to enter into trade agreements under the act—

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<sup>1/</sup> Public Law 316 (73d Cong., 2d sess.). (See appendix B.)

whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States . . .

The President's authority to proclaim changes in United States duties or other import restrictions was circumscribed by three specific limitations:

- (1) No rate of duty could be increased or decreased by more than 50 percent of the "existing" rate.
- (2) No article could be transferred between the free and dutiable lists.
- (3) Duties proclaimed under authority of the act were to apply to imports from all countries, except that the President was authorized to withhold trade concessions from countries which either discriminate against American commerce or pursue policies which tend to defeat the purposes of the Trade Agreements Act. <sup>2/</sup>

The act specifically provided that trade agreements with countries other than Cuba should not prevent continuance or modification of the long standing preferential trade relations existing between the United States and Cuba. <sup>3/</sup> United States rates of duty applicable to imports from Cuba could be increased or decreased, in accordance with an agreement with that country, by as much as 50 percent.

Procedural limitations imposed upon the President required that before he should conclude a trade agreement under authority of the act—

- (1) reasonable public notice of the intention to negotiate an agreement . . . shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate . . .
- (2) the President shall seek information and advice with respect thereto from the United States Tariff Commission, the Departments of State, Agriculture, and Commerce, and from such other sources as he may deem appropriate.

The act provided that every trade agreement made under its authority should be subject to termination, upon due notice to the foreign government concerned, at the end of not more than 3 years from the effective date of the agreement. If not then terminated,

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<sup>2/</sup> Under authority of this provision, trade-agreement concessions were withheld from Germany and, for a short time, from Australia.

<sup>3/</sup> First provided for by the treaty of commercial reciprocity concluded between the United States and Cuba in 1902.

the agreement would be subject to subsequent termination upon not more than 6 months' notice. The President's authority to enter into trade agreements was limited to a 3-year period dating from enactment of the law.

#### Extensions of the Trade Agreements Act

The Trade Agreements Act was renewed by joint resolutions of Congress in 1937, <sup>4/</sup> 1940, <sup>5/</sup> and 1943. <sup>6/</sup> The first two of these extensions were for 3-year periods and the third extension was for 2 years. No other changes were made in the provisions of the original act, except that the renewal in 1943 specifically included "operations of international cartels" among the acts of a foreign country which would provide the President with a basis for withholding from that country trade-agreement concessions which would otherwise be extended to it.

When the Trade Agreements Act was renewed by the Congress in 1945, again by joint resolution, <sup>7/</sup> it was amended in important respects. The principal modification was a change in the base upon which the maximum permissible changes in tariff rates would be calculated. Whereas under the original Trade Agreements Act any duty could be increased or decreased by 50 percent of the "existing rate," <sup>8/</sup> under the 1945 extension of the act the same maximum percentage change could be applied against whatever rate was in existence on January 1, 1945 (including even a rate temporarily suspended by act of Congress). Thus, if a rate had already been reduced by 50 percent, it could be reduced an additional time by 50 percent, or 75 percent below the original rate. However, if the rate in effect on that date was an "emergency" rate such as was established for a number of commodities by trade agreements made during the war, any further change was to be calculated on the basis of the postemergency rate. Furthermore, whenever the United States reserved the unqualified right, under provisions of a trade agreement, to withdraw or modify a rate on a specific commodity after the termination of war or an emergency, "the rate on such commodity to be considered as 'existing on January 1, 1945' . . . shall be the rate which would have existed if the agreement had not been entered into." The 1945 amendment also provided that no agreement could be proclaimed which had already been terminated in whole by the President before enactment of the amendment.

Another provision of the 1945 amendment added the War and Navy Departments to the group of Government agencies from which the President is required to "seek information and advice" with respect to foreign trade agreements.

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<sup>4/</sup> Public Res. 10 (75th Cong., 1st sess.), 1937.  
<sup>5/</sup> Public Res. 61 (76th Cong., 3d sess.), 1940.  
<sup>6/</sup> Public Law 66 (78th Cong., 1st sess.), 1943.  
<sup>7/</sup> Public Law 130 (79th Cong., 1st sess.), 1945, reproduced as appendix C.  
<sup>8/</sup> See footnote 4, ch. 2.

## Executive Order 9832

On February 25, 1947, the President issued Executive Order 9832, <sup>9/</sup> the purpose of which, according to the Presidential statement <sup>10/</sup> which accompanied it, was to formalize and make mandatory certain existing trade-agreement procedures and to change certain of those procedures, in order to make "assurance doubly sure that American interests will be properly safeguarded." The statement reaffirmed the administration's faith in the "Cordell Hull Reciprocal Trade Agreements Program" and explained that the provisions of the Executive order did "not deviate from the traditional Cordell Hull principles."

General escape clause

The provision of the order particularly designed to safeguard American interests is that requiring insertion in all future trade agreements of a so-called escape clause under which the United States reserves the right to withdraw (under specified circumstances) a concession which causes or threatens serious injury to domestic producers. Such a clause was in fact contained in the trade agreement with Mexico signed December 23, 1942.

Under the mandatory escape clause, a trade-agreement concession on any article may be withdrawn, in whole or in part, or modified, to the extent and for such time as may be necessary, whenever all of the following conditions are present:

- (1) Imports of the articles have increased.
- (2) This increase has resulted from the concession and from developments "unforeseen" at the time the agreement was consummated.
- (3) The increase has been in such quantity and under such conditions as to cause, or threaten, serious injury to domestic producers of like or similar articles.

The Executive order designates the Tariff Commission as the agency responsible for determining when the aforementioned conditions exist. The Commission is required to conduct investigations for that purpose upon the request of the President, upon its own initiative, or upon application of an interested party "when in the judgment of the Tariff Commission there is good and sufficient reason therefor." Whenever the Commission shall find, as a result of such investigation, that serious injury is being caused or threatened, the Commission is required to report its finding to the President and to recommend, for his consideration in the light of the public interest, withdrawal or modification of the concession.

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<sup>9/</sup> Reproduced as appendix D.

<sup>10/</sup> Reproduced as appendix E.



In the conduct of investigations, the Commission is required to hold public hearings; to give reasonable advance notice thereof to the public; and to afford reasonable opportunity for interested parties to be present, to produce evidence, and to be heard at such hearings. The Tariff Commission is instructed to prescribe from time to time the rules and regulations governing investigations and hearings. <sup>11/</sup>

The Executive order also requires the Commission to keep informed at all times on the operation and effect of trade-agreement provisions relating to duties or other import restrictions of the United States and to submit to the President and the Congress, at least once a year, a factual report on the operation of the trade agreements program. The present report, which is made in compliance with the Executive order, is the first comprehensive report covering the program as a whole.

#### Interdepartmental Committee on Trade Agreements

Part II of Executive Order 9832 designates an Interdepartmental Committee on Trade Agreements (usually referred to as the "Trade Agreements Committee") to act as the agency through which the President should seek information and advice from Government agencies before concluding a trade agreement and prescribes the procedures which shall be followed in making such an agreement. For the most part the Executive order formalizes the organization (including an interdepartmental committee on trade agreements) and general procedure which has been followed since enactment of the original Trade Agreements Act. Membership of the Trade Agreements Committee has changed from time to time, but most of the departments which were originally represented on it continue to be represented on it under the Executive order, which names as members a Commissioner of the Tariff Commission and persons designated from their respective agencies by the Secretaries of the Departments of State, Treasury, War, Navy, Agriculture, Commerce, and Labor. The War and Navy Departments were first represented on the Trade Agreements Committee on July 5, 1945, as provided in the extension and amendment of the Trade Agreements Act on that date. The representative of the State Department had always served as Chairman of the Trade Agreements Committee and under Executive Order 9832 continues to serve in the same capacity.

The Executive order allocates among the Departments represented on the Trade Agreements Committee responsibility for carrying out various phases of the work involved in the negotiation of trade agreements. For the most part, the order in this respect formalizes practices which had already been in use. The Tariff Commission is required to submit to the Trade Agreements Committee a digest of the facts relative to the production, trade, and consumption of each import item considered by that Committee for inclusion in a trade agreement; to estimate the probable effect of granting the concession; and to describe the competitive factors involved. The Tariff Commission is

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<sup>11/</sup> See U. S. Tariff Commission, Procedure and Criteria With Respect to the Administration of the "Escape Clause" in Trade Agreements, 1948 /processed/.

required to publish these digests, excepting only those parts containing confidential material. The Department of Commerce is assigned corresponding functions with respect to United States export items considered for inclusion in a trade agreement, but the Department of Commerce is not required to publish its digests.

It is provided that the Trade Agreements Committee shall make such recommendations to the President—rather than to the Secretary of State as previously—"relative to the conclusion of trade agreements, and to the provisions to be included therein, as are considered appropriate to carry out the purposes" set forth in the Trade Agreements Act as amended. These recommendations are to be made after the Committee has considered and analyzed all information available to it, including the information submitted by the Tariff Commission and the Department of Commerce and the views of interested persons which have been presented to the Committee for Reciprocity Information <sup>12/</sup> and submitted by that Committee to the Trade Agreements Committee. This procedure is substantially in continuation of that previously followed by the Trade Agreements Committee. There is, however, one important innovation. If any recommendation of the Trade Agreements Committee does not have unanimous approval, the dissenting member or members are required to submit to the President a report "giving the reason for their dissent and specifying the point beyond which they consider any reduction or concession involved cannot be made without injury to the domestic economy."

#### Most-favored-nation treatment of United States exports

Part III of Executive Order 9832 requires that each trade agreement shall contain "a most-favored-nation provision securing for the exports of the United States the benefits of all tariff concessions and other tariff advantages hereafter accorded by the other party or parties to the agreement to any third country. This provision shall be subject to the minimum of necessary exceptions and shall be designed to obtain the greatest possible benefits for exports from the United States." The Trade Agreements Committee is instructed to keep informed of discriminations by any country against United States trade and, "if the public interest will be served thereby," to recommend to the President that trade-agreement concessions be withheld from such country.

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<sup>12/</sup> This Committee, whose composition and function are described in chapter 5 of this part of the report, was created by Executive Order 6750, dated June 27, 1934 (see appendix F). The Committee remained under the jurisdiction of the Executive Committee on Commercial Policy (also described in chapter 5) until July 1939, when jurisdiction was transferred to the State Department under Executive Order 8190 (appendix G). Executive Order 6750 was again amended, principally to provide for an enlarged membership, by Executive Order 9647, dated October 25, 1945 (appendix H).

ADMINISTRATIVE ORGANIZATION AND PROCEDURE

Executive Committee on Economic Foreign Policy

Although interdepartmental activities in connection with the administration of the Trade Agreements Act are centered in the Interdepartmental Committee on Trade Agreements, reference should first be made to the Executive Committee on Economic Foreign Policy (formerly the Executive Committee on Commercial Policy). The major functions of the Executive Committee are to assist in formulating and coordinating our Government's foreign economic policy. When this Committee was created by Executive Letter of November 11, 1933, <sup>1/</sup> its membership consisted of representatives of the Tariff Commission, the National Recovery Administration, and the Departments of State, Treasury, Commerce, and Agriculture. It was this Committee which assumed chief responsibility for the preparation of the original draft of the legislation culminating in the Trade Agreements Act and, subsequently, for making the initial recommendations regarding machinery for its administration.

The primary functions of the Executive Committee have not changed, but its membership has been modified and enlarged from time to time. Its present membership includes representatives from the Departments of State, Treasury, Agriculture, Commerce, Interior, Labor, National Military Establishment, National Security Resources Board, and the Tariff Commission. Other agencies also are consulted by the Committee when problems of particular interest to them are under consideration. It takes no direct part in the administration of trade-agreement legislation, this function having been assigned (under Executive Order 9832) to the Interdepartmental Committee on Trade Agreements. The Executive Committee on Economic Foreign Policy, however, does act in an advisory capacity in connection with matters of general policy which may be referred to it from time to time by the Trade Agreements Committee and the Committee on Reciprocity Information.

Interdepartmental Committee on Trade Agreements

Organization

Section 4 of the Trade Agreements Act of 1934 prescribed that before concluding any trade agreement--

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<sup>1/</sup> This Committee was continued by Executive Orders 6656 (March 27, 1934) and 7260 (December 31, 1935) and Executive Letter of April 5, 1944.

the President shall seek information and advice with respect thereto from the United States Tariff Commission, the Departments of State, Agriculture, and Commerce and from such other sources as he may deem appropriate. <sup>2/</sup>

The Interdepartmental Committee on Trade Agreements (or the Trade Agreements Committee as it is usually called) was established shortly after the passage of the Trade Agreements Act for the purpose of supplying such "information and advice." Under this provision, the Trade Agreements Committee collects, sifts, and collates information obtained from Government agencies and from other sources with a view to making recommendations to the President and otherwise assisting him in the conduct of trade-agreement negotiations. The Trade Agreements Committee originally included members not only from the agencies specified in the act, but also from the Treasury Department, the Office of the Special Adviser on Foreign Trade, the National Recovery Administration, and the Agricultural Adjustment Administration. During the war, the Board of Economic Warfare and the Office of Price Administration were represented on the Committee. The present membership (April 1948) includes representatives from the Departments of State, Commerce, Agriculture, Treasury, Army, Navy, and Labor, and from the Tariff Commission. The Trade Agreements Committee has always made a practice of consulting Government departments and agencies which were not members of the Committee when matters of interest to them were under consideration.

A representative from the State Department has always served as chairman of the Committee. This representative has been the Chief of the State Department's division which supervises trade-agreement matters. That division, established in 1935 as the Division of Trade Agreements, became in 1944, after a series of changes in name, the Division of Commercial Policy.

Only one member from each agency has a vote on the Trade Agreements Committee. Decisions are by a simple majority of the members present and voting. Dissenting members have always been free to submit minority reports to the Secretary of State and even to the President; Executive Order 9832 (February 1947) requires dissenting members to submit them to the President. Members must not only set forth the reasons for their dissent, but they must also specify "the point beyond which they consider any reduction or concession involved cannot be made without injury to the domestic economy."

#### Functions and subcommittees

The Trade Agreements Committee is responsible for recommending to the President specific trade agreements, for framing their detailed content, and for directing and supervising the whole trade agreements program. In turn, the Trade Agreements Committee has the aid of a number of subcommittees whose work it supervises.

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<sup>2/</sup> When the Trade Agreements Act was extended in 1945, the War and Navy Departments were added to the above list.

The most important subcommittees are the so-called country committees. One of these is appointed whenever an agreement with some particular country is taken under active consideration. Like the Trade Agreements Committee, the country committees are interdepartmental and their members are designated by their respective agencies. Serving on each of these subcommittees are members from the Departments of State, Commerce, and Agriculture, and from the Tariff Commission.

The country committee for any given country analyzes the mass of information supplied by the various Government agencies, together with that supplied by private parties through the Committee for Reciprocity Information. On the basis of the information gathered, it makes specific recommendations to the Trade Agreements Committee on the content of the proposed trade agreement. Country Committees function not only during the period of preparation for negotiation of agreements, but also during the actual negotiations.

At times the Trade Agreements Committee has established subcommittees other than the country committees, including the so-called commodity subcommittees. These latter subcommittees have supplied technical and tariff information on the more important groups of commodities and have estimated the effects on the domestic economy of granting (or of receiving) trade-agreement concessions on such commodities. The commodity subcommittees have been organized on the same interdepartmental basis as the country committees. The Trade Agreements Committee has also at times referred special problems to subcommittees of its own members.

#### Committee for Reciprocity Information

Section 4 of the Trade Agreements Act provides that before the President shall conclude an agreement with any foreign government under authority of that act—

reasonable public notice of the intention to negotiate . . . shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe.

In conformity with the above provision, the President created the Committee for Reciprocity Information on June 27, 1934.<sup>3/</sup> This is an interdepartmental committee on which the agencies represented are generally the same as those on the Trade Agreements Committee. Most persons designated to serve on the Trade Agreements Committee are also designated to serve on the Committee for Reciprocity Information. The agency representation on the latter Committee has

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<sup>3/</sup> Executive Order 6750, June 27, 1934. See appendix F.

therefore been changed from time to time. <sup>4/</sup> Each agency ordinarily designates one or two representatives to serve on this Committee, but on two occasions—once before the negotiations with the United Kingdom in 1938 and again before the negotiations with the group of nations at Geneva in 1947—each agency appointed several representatives. These appointments were made to permit simultaneous hearings before a number of panels. The chairman of the Committee for Reciprocity Information is designated by the Secretary of State. Since the inception of this Committee, the Secretary has regularly appointed to this post the Vice Chairman of the Tariff Commission.

The primary functions of the Committee for Reciprocity Information are to provide an opportunity for all interested parties to present their views on proposed trade agreements and to see to it that those views are brought to the attention of both the members of the country committee concerned and the Trade Agreements Committee. For these purposes, the Committee for Reciprocity Information publicly announces the dates for filing briefs and the dates on which public hearings will be held; it acts as a depository for the briefs; it conducts the formal hearings at which oral presentations are made; it digests and classifies all the information contained in briefs and presented orally; and it forwards to the appropriate committees all the information and material it collects, in both the original form (briefs and transcripts of hearings) and abstracted form.

The Committee for Reciprocity Information employs a full-time secretary to take care of correspondence, to supervise the maintenance of files, and to channel information between interested private parties and appropriate personnel of the trade agreements organization. Where circumstances warrant, the secretary of the Committee for Reciprocity Information also arranges for informal conferences between private parties and the Committee or members of it, particularly regarding the operation of existing trade agreements.

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<sup>4/</sup> Executive Order 6750 provided that membership of the Committee for Reciprocity Information should be composed of appointees designated from their respective agencies by the Secretaries of State, Agriculture, and Commerce, the National Recovery Administrator, the Chairman of the Tariff Commission, the special adviser to the President on foreign trade, and the heads of such other Federal Departments or offices as may be named from time to time by the Executive Committee on Commercial Policy. Executive Order 8190, July 5, 1939 (appendix G), which placed the Committee for Reciprocity Information under jurisdiction of the State Department, continued the arrangement whereby the Executive Committee on Commercial Policy designated members to the Committee for Reciprocity Information. Executive Order 9647, October 25, 1945 (appendix H), specified that members should be designated to represent their respective agencies by the Chairman of the United States Tariff Commission, by the Secretaries of State, Treasury, War, Navy, Agriculture, and Commerce, and by heads of such other agencies as the Secretary of State may designate upon the recommendation of the Committee.

## Procedure Followed in Negotiating Agreements

The various steps taken in the negotiation of a trade agreement are set forth below in the same sequence in which they generally occur. Some of the steps, however, overlap others in whole or in part.

Preliminary exploration

Before a trade agreement can be negotiated, the United States and the other country concerned must come to a tentative understanding that a basis for such an agreement exists. Conversations looking toward a trade agreement may be initiated either by the United States or the other country concerned; such conversations ordinarily take place through the regular diplomatic channels. Sometimes the foreign country does not understand the nature of the trade agreements into which the United States is prepared to enter. If the foreign country is unable or unwilling to negotiate within the limitations imposed by the Trade Agreements Act or is unwilling to grant to the United States unconditional most-favored-nation treatment and to receive concessions from the United States on a basis of their extension to all other countries, these preliminary conversations reveal the misunderstanding, and no further effort is directed toward negotiating an agreement at that time. On the other hand, if the preliminary conversations give evidence of the desire and ability of both countries to proceed to negotiation of an agreement, the Trade Agreements Committee appoints a country committee to make a detailed examination of all factors pertinent to such a negotiation.

Immediately upon being organized, the country committee requests the Commerce Department to supply information on past United States exports to the country in question, and requests the Tariff Commission to supply corresponding information on past United States imports from that country. The country committee then analyzes these data in the light of all other factors known to it which are pertinent to the future composition and magnitude of the trade between the two countries; after that, the committee prepares a tentative list of United States export articles on which the United States Government should request concessions of the foreign country, and a corresponding list of the import articles on which the United States should consider granting concessions to that country. The country committee then submits its report to the Trade Agreements Committee, together with its recommendation concerning the desirability of seeking an agreement with the country in question.

On the basis of the report and recommendations received from the country subcommittee, the Trade Agreements Committee may decide for or against proceeding with negotiations, or it may request additional information from that subcommittee before making its decision. For example, if the Trade Agreements Committee concludes that the United States is not likely to obtain concessions equivalent to those which it would be obliged to grant or if it learns that the foreign country is no longer interested in an agreement, the Committee recommends to the State Department that no further steps be taken to effect an agreement. On the other hand, if a balanced agreement appears possible, the Trade Agreements Committee transmits to the President a recommendation that formal negotiations be undertaken,

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and accompanies that recommendation with two tentative lists of items: those on which concessions might appropriately be asked of the foreign country and those on which concessions might be granted by the United States.

In the preparation of the list of commodities on which the United States might consider the grant of concessions, the country committee and the Trade Agreements Committee carefully consider both the competition between imports and domestic goods and the past and probable future sources of imports of the commodities. It is the general policy, in an agreement with any given country, not to grant a concession unless that country has been or is likely to become the principal, or at least a major, source of imports of the commodity.<sup>5/</sup> Statistics on past imports are examined and any facts pointing toward a change in the sources of the imports are weighed.

After the proposal to negotiate is approved by the Secretary of State and the President, formal discussions with the foreign country are instituted. If that country is willing to negotiate, the first step is to reach an agreement with it on the list of articles on which the United States will tentatively consider granting concessions. Often the foreign country asks that more (sometimes many more) articles be included in the list than are included in it initially. These requests for additional listings are considered by the United States trade-agreement organization in the light of the principles on which the original list was based; some of the requests for listing may be granted and others refused. The foreign country is always given to understand that the inclusion of an item in the list for negotiation implies no assurance that a concession will actually be made on it.

After the final determination as to what articles shall be listed as potential subjects for concessions by the United States, the Secretary of State gives formal notice of the intention of the United States to negotiate an agreement with the foreign country.

#### Public notice

In advance of negotiating a trade agreement with any country, the public is given notice of the Government's intention to negotiate, is advised of the list of import articles on which the United States will consider granting concessions, and is invited to supply the Government with any information that may be useful to it in the conduct of the negotiation.

Formal notice of intention to negotiate is made by the Secretary of State; it is published in the Federal Register and in other

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<sup>5/</sup> In view of the fact that any concession by the United States is extended to all countries (unless withheld by the President for reasons specified in the Trade Agreements Act), the reason for this policy is obvious. Since only the country with which the particular agreement is negotiated grants direct concessions in compensation for a concession by the United States, this policy conserves the bargaining power of this country, seeking to assure maximum compensation for the concessions granted.



Government publications; <sup>6/</sup> and it is issued to the press in order to assure rapid and widespread publicity through newspapers and radio broadcasts. At the same time, the Committee for Reciprocity Information announces the form and manner in which briefs may be submitted by interested parties, the final date for filing them, and the date or dates on which public hearings will be held. At least 6 weeks' notice is ordinarily given for the filing of briefs; public hearings usually commence 1 week after the closing date for filing.

Before 1937, the formal announcement of a proposed trade agreement was accompanied merely by a list of the principal items of imports from the foreign country concerned. This list was provided to give an indication of the classes of articles from which "concession items" were likely to be selected, but concessions were sometimes granted on minor items not appearing on that list. Since 1937, the above list has been replaced by a so-called public list on which appear all the import items on which the grant of a concession will be considered. This practice serves to notify those industries whose products are not on the list that they will not be directly affected by the negotiations; it is primarily for the convenience of such industries. Foreign governments do not follow a corresponding practice. When the public list is issued interested parties are clearly informed that the inclusion of an item in the list is no indication that a concession will actually be made with respect to it.

A supplemental public list may be issued only when it is attended by the same formalities as the original public list, including notice as to the submission of briefs and the holding of public hearings. While no item which does not appear on the original or supplemental public list may be considered for a trade-agreement concession, many of the items so listed may prove—on the basis of detailed study of information contained in briefs or developed at public hearings or in the process of negotiations—to be unsuitable for a concession or to be suitable for a concession on only some subgroup of the item.

The Department of Commerce and the United States Tariff Commission give extensive publicity to the public list and also to the announcements made by the Department of State and the Committee for Reciprocity Information concerning the contemplated negotiations. Publications and announcements by all these Government agencies are sent to trade associations, trade publications, concerns, and individuals who are likely to be interested.

As quickly as possible after the announcement of the intention to negotiate, the United States Tariff Commission makes available to the Trade Agreements Committee and the country committee concerned a digest of the available information on each of the articles appearing in the public list. Before 1947, these digests were for the confidential use of these committees, although the digests regarding articles on which concessions were actually granted were usually made available to the public after the agreement was concluded. However, shortly before the public hearing in Washington commenced on January 13, 1947, on the proposed trade agreement to be negotiated

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<sup>6/</sup> Executive Order 9647, October 25, 1945, specified publication in the Federal Register, Department of State Bulletin, Treasury Decisions, Foreign Commerce Weekly, and issuance to the press.

with the "nuclear" group of countries in Geneva, the Tariff Commission published and distributed the digests of information (excluding confidential information) on each item in the published list.

Public distribution of digests before the negotiation of agreements gives domestic interests a knowledge of the primary data on which concessions by the United States may be based. It also makes the same information available to the foreign negotiators and thus enables them better to adapt their requests to the facts of United States production and trade. Since foreign governments, on the other hand, have not followed the practice of publishing in advance of negotiations digests of information on their import items or even a list of import items on which concessions will be considered, American negotiators have a wider latitude in requesting concessions but less information as to the specific articles on which foreign governments will consider granting concessions.

#### Steps in negotiations

After the public hearings, the Committee for Reciprocity Information distributes to its members the transcripts of the hearings, in both their original and abstracted forms. These members--most of whom also serve on the Trade Agreements Committee--make this material available to the country committee in question and to other interested subcommittees.

The country committee examines this material, together with digests prepared by the Tariff Commission and the data received from various Government agencies, particularly the Departments of Agriculture and Commerce. On the basis of the information thus acquired, the country committee prepares two lists for the consideration of the Trade Agreements Committee. One list comprises the concessions (names of articles and nature and extent of the concession) which the country committee considers appropriate to request of the foreign country, and the other list, those which it considers appropriate to grant to the foreign country (on the assumption that the foreign country makes adequate concessions).

These two lists prepared by the country committee and the supporting data are analyzed by the Trade Agreements Committee and are critically reviewed at joint meetings held with the country committee. From this review, there emerge the list of requests and the list of offers which the Trade Agreements Committee recommends to the President. If the lists are approved by him the United States is ready to begin negotiations.

Primary responsibility for the conduct of negotiations on behalf of the United States rests with the Department of State, which usually has the assistance of a negotiating team on which other agencies also are represented. A representative of the Department of State serves as chairman of the negotiating team, when such a team is established, and he serves as principal negotiator. Other members of the team generally include additional representatives from the Department of State as well as representatives from the Tariff Commission, the Departments of Commerce and Agriculture, and sometimes one or more other Government agencies.

United States negotiators are bound by the instructions they receive from the Trade Agreements Committee, and there is close collaboration between the negotiators and that Committee throughout the progress of negotiations. For example, if a foreign country requests a greater reduction in a United States duty than has been offered, such a request must be referred to the Trade Agreements Committee.

Negotiations generally continue until agreement is reached on terms which are acceptable to both sides. However, negotiations sometimes break down because no such agreement appears in prospect. In these circumstances efforts to negotiate an agreement with the country in question are abandoned, at least temporarily.

The formal signing of a trade agreement on behalf of the United States is done by a representative of the Department of State, usually the Secretary.

Each agreement provides for the date on which it will go into effect. The general practice of the United States has been to make the concessions granted by this country effective 30 days or more after public proclamation of the agreement, which usually follows promptly after the signing of the agreement. The United States proclamation is accompanied by a complete text of the agreement which sets forth in detail all concessions granted and received. This proclamation is followed by a Department of State release which analyzes in detail the general provisions of the agreement and the concessions granted and received thereunder. Also, in the past, the Tariff Commission has generally published a report which gave detailed trade and tariff information about the articles on which concessions had been granted by the United States. Executive Order 9832 requires the Tariff Commission to publish digests of information on all import items considered for inclusion in a prospective negotiation.

#### The Geneva negotiations

The negotiations conducted at Geneva, Switzerland, in 1947 differed from earlier negotiations principally in the scale of the operations involved. The United States delegation was composed of 85 officials, <sup>7/</sup> about half of whom were members of official negotiating teams. Initially there were 11 such teams, <sup>8/</sup> each of which negotiated with one or more countries. Each United States team was composed of representatives from the Departments of State and Commerce and from the United States Tariff Commission. The negotiators received assistance from technical experts and advisers detailed to Geneva by various agencies of the Government, including not only the three agencies just mentioned but also the Departments of Agriculture, Treasury, Labor, War,

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<sup>7/</sup> U. S. Department of State, Press Release 181, Mar. 11, 1947. Some of these officials, however, were more concerned with work on the Charter for the International Trade Organization than with trade-agreement negotiations.

<sup>8/</sup> These were designated to negotiate with teams representing the following countries: United Kingdom; Canada; Southern Dominions (Australia, New Zealand, and South Africa); India; France; Belgium, Luxembourg, and Holland; China and Lebanon; Czechoslovakia; Brazil and Chile; Cuba; and Norway.

and Navy. Negotiating teams of the United States also had the benefit of the counsel and direction of the official United States delegation to the Conference, as well as of the Trade Agreements Committee which held sessions in Geneva.

At Geneva the United States negotiated simultaneously with 22 countries. The separate agreements entered into were combined into a composite or multilateral trade agreement, known as the General Agreement on Tariffs and Trade, the final act authenticating which was signed at Geneva on October 30, 1947. <sup>9/</sup>

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<sup>9/</sup> General Agreement on Tariffs and Trade, United Nations Publications Sales No.: 1947. II.10—Vol. 1, Lake Success, N. Y., 1947.

RÉSUMÉ OF TRADE AGREEMENTS

PRE-GENEVA AGREEMENTS

From the time the Trade Agreements Act of 1934 went into effect until the conclusion of the General Agreement on Tariffs and Trade in Geneva, Switzerland, in 1947, the United States concluded trade agreements with 28 different foreign countries. Single agreements only were entered into with 26 of those countries; but three agreements—one original and two others—were entered into with Cuba and with Canada. The United States therefore negotiated 32 separate agreements with 28 different countries before the Geneva agreement. Table 1 gives the names of the countries with which those agreements were made, the date on which each agreement was signed, and the date on which each went into effect.

Table 1.- Countries with which the United States negotiated agreements under authority of the Trade Agreements Act of 1934 as amended, prior to the General Agreement on Tariffs and Trade consummated in Geneva, Switzerland, on Oct. 30, 1947, by date of agreement

Country	Date signed	Date effective
Cuba <sup>1/</sup> (preferential agreement)	Aug. 24, 1934	Sept. 3, 1934
Brazil <sup>1/</sup>	Feb. 2, 1935	Jan. 1, 1936
Belgium (and Luxembourg) <sup>1/</sup>	Feb. 27, 1935	May 1, 1935
Haiti	Mar. 28, 1935	June 3, 1935
Sweden	May 25, 1935	Aug. 5, 1935
Colombia	Sept. 13, 1935	May 20, 1936
Canada (superseded by a second agreement)	Nov. 15, 1935	Jan. 1, 1936
Honduras	Dec. 18, 1935	Mar. 2, 1936
The Netherlands <sup>1/</sup>	Dec. 20, 1935	Feb. 1, 1936
Switzerland	Jan. 9, 1936	Feb. 15, 1936
Nicaragua <sup>2/</sup>	Mar. 11, 1936	Oct. 1, 1936
Guatemala	Apr. 24, 1936	June 15, 1936
France <sup>1/</sup>	May 6, 1936	June 15, 1936
Finland	May 18, 1936	Nov. 2, 1936
Costa Rica	Nov. 28, 1936	Aug. 2, 1937
El Salvador	Feb. 19, 1937	May 31, 1937
Czechoslovakia <sup>3/</sup>	Mar. 7, 1938	Apr. 16, 1938
Ecuador	Aug. 6, 1938	Oct. 23, 1938
United Kingdom <sup>1/</sup>	Nov. 17, 1938	Jan. 1, 1939
Canada (second agreement) <sup>1/</sup>	Nov. 17, 1938	Jan. 1, 1939
Turkey	Apr. 1, 1939	May 5, 1939
Venezuela	Nov. 6, 1939	Dec. 16, 1939
Cuba (first supplementary agreement) <sup>1/</sup>	Dec. 18, 1939	Dec. 23, 1939
Canada (supplementary fox-fur agreement) <sup>1/4/</sup>	Dec. 13, 1940	Dec. 20, 1940
Argentina	Oct. 14, 1941	Nov. 15, 1941
Cuba (second supplementary agreement) <sup>1/</sup>	Dec. 23, 1941	Jan. 5, 1942
Peru	May 7, 1942	July 29, 1942
Uruguay	July 21, 1942	Jan. 1, 1943
Mexico	Dec. 23, 1942	Jan. 30, 1943
Iran	Apr. 8, 1943	June 28, 1944
Iceland	Aug. 27, 1943	Nov. 19, 1943
Paraguay	Sept. 12, 1946	Apr. 9, 1947

<sup>1/</sup> Superseded by the General Agreement on Tariffs and Trade negotiated at Geneva in 1947.

<sup>2/</sup> The duty concessions and certain other provisions of this agreement ceased to be in force as of Mar. 10, 1938.

<sup>3/</sup> Operation of this agreement suspended as of Apr. 22, 1939.

<sup>4/</sup> Replaced a previous supplementary agreement relating to fox furs, signed on Dec. 30, 1939.

Most pre-Geneva agreements provide that they shall remain in force for an initial period of 3 years, after which they shall be automatically extended for an indefinite period but subject to termination by one or the other of the contracting parties on giving 6 months' notice. Unless denounced in such manner, or rendered conditionally inoperative, or superseded, the pre-Geneva agreements which are still in force may remain in effect indefinitely, irrespective of whether or not the Trade Agreements Act is further extended.

When the Geneva agreement was concluded in October 1947, all but three of the trade agreements previously negotiated by the United States (under authority of the Trade Agreements Act of 1934) were still in effect. <sup>1/</sup> Immediately after negotiation of the Geneva agreement, the United States signed separate supplementary agreements with the Belgo-Luxembourg Economic Union, Canada, Cuba, France, the Netherlands, and the United Kingdom, under which the pre-Geneva trade agreements with those countries are to remain inoperative as long as those countries maintain the Geneva agreement in effect.

GENERAL AGREEMENT ON TARIFFS AND TRADE  
(GENEVA AGREEMENT), 1947

Conduct of Negotiations

The United States invited 19 foreign countries to participate in the negotiation of a multilateral trade agreement at Geneva, Switzerland, commencing April 10, 1947. The Soviet Union did not accept the invitation but the other 18 countries, which are identified in table 2, accepted. At the outset of the negotiations, the 19 participating countries (including the United States) were represented by 16 "negotiating units," also listed in table 2. (Belgium, Luxembourg, and the Netherlands, comprising the Benelux Customs Union, negotiated as a unit; so did the Lebanon and Syria Customs Union.) Several changes and additions were made in the composition of membership during the course of the negotiations with the result that 23 countries, represented by 19 negotiating units, participated in the final negotiations (table 2).

Tariff negotiations at Geneva were conducted bilaterally on a product-by-product basis. As a general rule, each country negotiated for concessions on each of its important import commodities with its principal supplier of imports of that commodity.

If each of the participating teams had successfully negotiated with the others represented at Geneva, almost 200 separate bilateral agreements would have resulted. The actual number, however, was much

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<sup>1/</sup> The exceptions were (1) the original trade agreement with Canada, which was superseded by a second and more comprehensive agreement with that country in 1939; (2) the trade agreement with Nicaragua, in which the duty concessions were terminated in 1938; and (3) the trade agreement with Czechoslovakia, which was terminated in 1939.

Table 2.- Countries which participated in trade-agreement negotiations at Geneva in 1947 <sup>1/</sup>

19 countries (18 + U.S.) which: accepted invitation to participate <sup>2/</sup>	16 initial negotiat- ing units, or customs areas (15 + U.S.)	19 final negotiat- ing units, or customs areas (18 + U.S.)	23 individual coun- tries participating (22 + U.S.)
Australia	: Australia	: Australia	: Australia
Belgium	: Benelux Customs Union <sup>3/</sup>	: Benelux Customs Union <sup>3/</sup>	: Belgium <sup>3/</sup>
Brazil	: Brazil	: Brazil	: Brazil
-	: -	: Burma <sup>4/</sup>	: Burma <sup>4/</sup>
Canada	: Canada	: Canada	: Canada
-	: -	: Ceylon <sup>4/</sup>	: Ceylon <sup>4/</sup>
Chile	: Chile	: Chile	: Chile
China	: China	: China	: China
Cuba	: Cuba	: Cuba	: Cuba
Czechoslovakia	: Czechoslovakia	: Czechoslovakia	: Czechoslovakia
France	: France	: France	: France
India	: India	: India and Pakistan <sup>5/</sup>	: India <sup>5/</sup>
Lebanon (for Lebanon and Syria)	: Lebanon and Syria Customs : Union	: Lebanon and Syria Customs : Union	: Lebanon
Luxembourg	: -	: -	: Luxembourg <sup>3/</sup>
Netherlands	: -	: -	: Netherlands <sup>3/</sup>
New Zealand	: New Zealand	: New Zealand	: New Zealand
Norway	: Norway	: Norway	: Norway
-	: -	: -	: Pakistan <sup>5/</sup>
-	: -	: -	: Syria
-	: -	: Southern Rhodesia <sup>4/</sup>	: Southern Rhodesia <sup>4/</sup>
Union of South Africa	: Union of South Africa	: Union of South Africa	: Union of South Africa
United Kingdom	: United Kingdom	: United Kingdom	: United Kingdom
United States	: United States	: United States	: United States

<sup>1/</sup> The Union of Soviet Socialist Republics was invited but did not accept.

<sup>2/</sup> Including the areas for which these countries had authority to negotiate.

<sup>3/</sup> The Belgium-Netherlands-Luxembourg Customs Union. The three countries signed the Geneva agreement separately

<sup>4/</sup> Initial negotiations were by the United Kingdom; but Burma, Ceylon, and Southern Rhodesia each signed the Geneva agreement.

<sup>5/</sup> Initial negotiations were by India before partition, but the Geneva agreement was signed separately by the Dominion of India and the Dominion of Pakistan.



smaller, inasmuch as several countries, particularly the smaller ones, did not find it practicable to negotiate when their trade with one another was not important.

The various bilateral agreements were combined to form the single General Agreement on Tariffs and Trade; and the Final Act authenticating the text of that agreement was signed at Geneva on October 30, 1947. Each participating country, whether it negotiated separately or not, signed the Final Act (see table 2). Each signatory on making the agreement effective is contractually entitled to enjoy in its own right the concessions made effective by each of the other signatories. <sup>2/</sup>

The full text of the Geneva agreement was published in four volumes by the Secretary General of the United Nations. <sup>3/</sup> Volume I contains the general provisions, and the other three volumes, the schedules of concessions pledged by each of the participating countries. The concessions granted by each country comprise a separate schedule, e.g., schedule XX contains the concessions granted by the United States.

#### Entry into force

The Geneva agreement does not enter into full force until 30 days after instruments of acceptance have been deposited with the Secretary General of the United Nations by signatory governments that account for 85 percent of the total external trade of the territories of governments which signed the Final Act of the Geneva Conference. <sup>4/</sup> Appended to the Geneva agreement, however, is a protocol which provides for provisional application of the Geneva agreement. This protocol was signed on the same day as the Geneva agreement by eight "key countries"—Australia, Belgium, Canada, France, Luxembourg, the Netherlands, the United Kingdom, and the United States. They undertook to apply provisionally, commencing January 1, 1948, parts I and III of the General Agreement and also part II of that agreement "to the fullest extent not inconsistent with existing legislation." The protocol is to remain open until June 30, 1948, for signature of other countries which participated in the General Agreement and which desire to give provisional application to the aforementioned parts of the agreement. Any country which applies the agreement provisionally under this protocol is free to suspend the application thereof after giving 60 days' notice to the Secretary General of the United Nations.

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<sup>2/</sup> Provision is made in the agreement, however, for the withdrawal of any particular concession in the event that the principal beneficiary fails to apply, or withdraws from, the agreement (see discussion of art. XXVII of the Geneva agreement).

<sup>3/</sup> General Agreement on Tariffs and Trade, United Nations Publications Sales No.: 1947.II.10—Vols. 1-4, Lake Success, N.Y., 1947.

<sup>4/</sup> The percentage agreed upon for each of the signatory governments is contained in annex H of the Geneva agreement. Inasmuch as this determination grants to the United States 25.2 percent of the total external trade of the territories of the signatory governments, one practical effect of this provision is to preclude its entering into full force and effect until the United States has deposited an instrument of acceptance with the Secretary General of the United Nations.

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On December 16, 1947, the President of the United States proclaimed that the Geneva agreement would be placed in effect provisionally as of January 1, 1948. <sup>5/</sup> The proclamation provided, however, that concessions by the United States of primary interest to countries which signed the Geneva agreement, but which had not at the time of the proclamation undertaken to put their schedules of tariff concessions into effect on January 1, 1948, would be withheld. As each of such countries later should signify its intention to put its tariff concessions into effect, the concessions temporarily withheld by the United States would be placed in effect by a further Presidential proclamation.

At the time the President made his proclamation, only the eight countries named above had signified their intention of giving provisional effect to the agreement on January 1, 1948. Shortly thereafter, Cuba announced its intention to do likewise. This announcement was followed by a Presidential proclamation extending to Cuba as of January 1, 1948, the concessions which would have been withheld from it under the proclamation of December 16, 1947. The nine countries which put the Geneva agreement into effect provisionally on January 1, 1948, account for about 80 percent of total world trade. Concessions still withheld by the United States on April 1, 1948, are those which are of primary interest to Brazil, Burma, Ceylon, Chile, China, Czechoslovakia, <sup>6/</sup> India, Lebanon, New Zealand, Norway, Pakistan, Syria, Southern Rhodesia, and the Union of South Africa.

#### COMPARISON OF GENERAL PROVISIONS OF GENEVA AGREEMENT WITH THOSE OF PRE-GENEVA AGREEMENTS

##### Nature and Purpose of General Provisions

The trade agreements listed in table 1 differ from one another in many respects, and each differs to an even greater degree from the General Agreement on Tariffs and Trade. All these agreements, as well as the Geneva agreement, however, contain a series of so-called general provisions and schedules that enumerate the articles on which specified concessions are granted by the United States and by the foreign countries, respectively.

The general provisions serve various purposes: They deal with procedural matters—such as the date when the agreement is to become effective, describe the geographic areas covered, specify how and when the agreement may be terminated, and provide for various other matters relevant to the agreement as a whole. They also incorporate as an integral part of the agreement the concessions set forth in the schedules.

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<sup>5/</sup> Department of State Bulletin, vol. 17, No. 443, Dec. 28, 1947, pp. 1258-1261. <sup>6/</sup> Press Release No. 973, Dec. 16, 1947.

<sup>6/</sup> Czechoslovakia put the agreement into effect provisionally on April 21, 1948.

Many of the general provisions are designed to prevent the impairment of tariff concessions by other devices such as discriminations in tariff, customs, and tax matters or the establishment of quotas and exchange controls. Provisions of this sort either define the limits within which specified discriminatory or restrictive measures may be employed, or prohibit their use altogether. Other general provisions (commonly called safeguarding provisions) are designed to prevent or limit injury to domestic producers which may result from the concessions granted.

Certain general provisions appear in virtually the same form in all pre-Geneva agreements. The form and scope of other general provisions, however, vary from agreement to agreement, chiefly for three reasons: As the United States became more experienced in negotiating trade agreements, it was better able to determine the most appropriate provisions to include in them; conditions governing the trade with some countries require safeguards and exceptions not applicable to the trade with others; and certain changes which occurred in international economic relations during the life of the trade agreements program called for changes in the general provisions.

The general provisions of the multilateral agreement negotiated at Geneva are much more extensive than the corresponding provisions which appear in any other trade agreement which the United States has signed. This circumstance is accounted for in part by the inherent differences between a multilateral and a bilateral agreement; in part by the fact that the aggregate factors affecting the economies of a large number of countries are more complex than those affecting the economies of only the United States and some single other country; in part by changes which grew out of the war and the postwar economic situation; and in part by still other causes. Some general provisions of the Geneva agreement deal with matters not dealt with in any pre-Geneva agreement. Since the objectives sought by the Geneva agreement closely parallel those sought in the proposed charter for an International Trade Organization, most of the general provisions of the Geneva agreement are identical with, or similar to, corresponding provisions of the proposed ITO charter. <sup>7/</sup>

The General Agreement on Tariffs and Trade consists of three main parts, comprising 34 separate articles and several annexes. The following analysis devotes particular attention to important differences between the content of these provisions and the content of the general provisions of the pre-Geneva agreements. <sup>8/</sup>

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<sup>7/</sup> See U. S. Tariff Commission, Analysis, Geneva Draft of Charter for an International Trade Organization, 1947 /processed/.

<sup>8/</sup> For a more detailed analysis of the general provisions of the Geneva agreement, see Department of State, Analysis of General Agreement on Tariffs Signed at Geneva, October 30, 1947, Publication 2983, 1947. The condensed analysis presented in this report disregards various qualifying provisions and exceptions, some of which are of considerable importance.

Part I Tariffs and Preferences 9/General most-favored-nation treatment

Article I of the Geneva agreement incorporates the most-favored-nation clause in its unconditional form. <sup>10/</sup> The principal purpose of this article is to pledge each contracting party to apply no higher tariffs or internal taxes on its imports from any country party to the agreement than it applies to imports of the same products from any other country (whether or not a party). Exceptions as to import tariffs are provided which permit preferences in the trade between a number of areas, such as those between the areas comprising the British Empire, between France and its colonies, and between the United States, Cuba, and the Philippines. The levels of preference in such trade, however, may not be increased above those which were in effect on various specified dates prior to the Geneva agreement. Under the most-favored-nation clause contained in the earlier bilateral trade agreements negotiated by the United States, no limitations were placed on the establishment, maintenance, or increase in preferences in trade between areas, such as those mentioned above.

The most-favored-nation provisions contained in article I of the Geneva agreement apply also to duties on exports, but here no exceptions are permitted. The application of this principle to export trade is designed to prevent diversion of exports of raw materials to favored markets by means of discriminatory export taxes. For example, before World War II, Malaya imposed a higher export tax on shipments of tin ore and concentrates to the United States than on shipments of the same materials to British Empire areas. This discriminatory arrangement operated to favor maintenance of tin-smelting facilities within the Empire and to discourage the development of such facilities in the United States.

Basically the most-favored-nation clause in the Geneva agreement is similar to that in the pre-Geneva agreements. The territories to which preferences may be granted as an exception to the general clause are also those for which it has been customary to make exceptions. However, the exceptions are in fact narrower, because no preference in an import tariff is permitted to be increased. In the pre-Geneva agreements the only limitations on the permitted preferences are those which are specifically set forth, generally in the same manner as tariff-rate reductions are specified. In other words, the Geneva agreement prohibits increases of preferences on all articles, whereas under the pre-Geneva agreements preferences can be increased unless

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9/ The subject heading "Tariffs and Preferences" shown in brackets has been supplied, for the Geneva agreement itself lists merely "Part I" (General Agreement on Tariffs and Trade, United Nations Publications Sales No.: 1947.II.10—vol. 1, Lake Success, N.Y., 1947, p. 2). All the subject headings shown below in this chapter under parts I, II, III (of the Geneva agreement itself) are those actually appearing in the Geneva agreement except for supplied subject headings or supplementary headings shown within brackets.

<sup>10/</sup> For a discussion of this clause in both its conditional and unconditional forms, see chapter 1.

they are the subject of specific commitments. Another important new provision is the unqualified prohibition of preferences in export tariffs. The pre-Geneva agreements do not forbid the use of preferential export tariffs.

#### Tariff concessions

Article II, which incorporates the schedules of particular tariff concessions annexed to the Geneva agreement, is basically similar to corresponding articles in pre-Geneva agreements. This article provides that no country shall alter its method of converting currencies so as to impair the concessions made in ad valorem duties. It also provides that the specific duties included in the schedules of concessions may be increased if the par value of a currency is reduced by more than 20 percent, provided that a majority of the countries adhering to the general agreement concur in the view that such adjustment will not impair the value of the concessions. Three important provisions which are also directly relevant to tariff commitments are included in parts II and III of the Geneva agreement discussed below. They are the exception regarding economic development (art. XVIII), the general escape clause (art. XIX), and the provision for modification of schedules after the agreement has been operative for 3 years, without complete renegotiation (art. XXVIII).

### Part II General Commercial Policy

Part II deals with a wide range of matters of international trade policy, but most of the 21 articles (arts. III-XXIII) are designed primarily either to prevent impairment of the tariff concessions contained in the schedules, or to safeguard the industries in the countries making tariff concessions from serious injury arising from the concessions. To carry out many of these provisions would require changes in existing United States laws and also in the laws of various other signatory countries. Accordingly, the Geneva agreement cannot become fully effective unless and until enabling legislation is enacted. The provisions of part II not inconsistent with legislation existing on January 1, 1948, however, became provisionally effective on that date.

#### National treatment

All signatories pledge themselves to extend national treatment to imports (art. III). The provisions for national treatment with respect to taxation are broader than similar provisions of pre-Geneva agreements in that they include a commitment against the use of taxes not only on imported articles which are "like" domestic articles but also on those which are not "like" domestic articles but which are "directly competitive" with or "substitutable" for domestic products which are not similarly taxed. Existing protective taxes in this class may continue but are subject to negotiation for their reduction or elimination. However, no new or increased taxes of this kind may be imposed. Article III prohibits the use of protective internal requirements such as mixing regulations, i.e., regulations which require the admixture of at least a certain percentage of domestic materials with imported materials. This prohibition also is new. The pre-Geneva agreements contain a prohibition of the use

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of quantitative restrictions on the sale of imported products on which specified tariff concessions were made (scheduled products). The prohibition in the Geneva agreement of mixing and similar regulations not only is much broader respecting the devices which it restricts but also applies to all products, whether or not tariff concessions have been made on them. Certain preexisting mixing regulations (if not discriminatory between countries) may be continued, but they may not be modified to the detriment of imports and are subject to negotiation for their limitation, liberalization, or elimination.

#### Cinematograph films

Special recognition is given to the economic peculiarities of the international trade in cinematograph films, imports of which are often governed by restrictions other than tariff duties (art. IV). The agreement recognizes allocation of screen time as a legitimate basis for the protection of domestic film industries but outlaws all other discriminatory measures applicable to imported films after they have passed through customs. None of the pre-Geneva agreements contain provisions which correspond to the one in article IV.

#### Freedom of transit

Provision is made in article V for freedom of transit through the territory of each contracting party for goods whose journey commences and terminates beyond the frontier of such territory. This article forbids the imposition of special transit duties or other charges, except charges for transportation or those commensurate with administrative expenses occasioned by the transit trade. The provisions apply not only to goods but also to carriers other than aircraft in transit.

Provisions similar to article V (in whole or in part) have frequently appeared in commercial treaties of the United States but in only one pre-Geneva agreement made under the Trade Agreements Act of 1934.

#### Antidumping and countervailing duties

The use of antidumping and countervailing duties is circumscribed (art. VI). Such duties may be employed only in the circumstances which their titles indicate and only to prevent injury to domestic interests; and the amounts of such duties must be in accord, respectively, with the margin of dumping and with the actual or estimated amount of foreign subsidy.

This article has no counterpart in pre-Geneva agreements and could not be completely put into effect without a change in the United States law relating to countervailing duties. Present law provides for the assessment of such duties without any requirement of finding of injury to domestic industries.

#### Valuation for customs purposes

When goods are subject to ad valorem duties, their valuation for customs purposes shall be on the basis of their "actual" value and not on an arbitrary or fictitious value (art. VII). This

article sets forth the general principles which are to be followed in determining actual value and it provides rules for arriving at conversion values of foreign currencies in each of several circumstances. This article has no counterpart in the pre-Geneva agreements; to put it into effect would require several important changes in United States law.

#### Formalities connected with importation and exportation

Provision is made for simplifying formalities connected with importation and exportation of goods (art. VIII). Recognition is given to the principle that supplementary customs fees and charges should be limited to the cost of the service rendered. Signatories agree not to impose substantial penalties for minor breaches of regulations. Most of the provisions of article VIII have no counterpart in pre-Geneva agreements. Usually, however, those agreements restrict the imposition of greater than nominal penalties for clerical errors in documentation.

#### Marks of origin

Signatories undertake to liberalize their requirements for the placing of marks of origin on imported products (art. IX). The agreement provides, for example, that importers be permitted to mark their goods at the time of importation instead of requiring that their goods be marked before importation; that marking not be required where it would damage the imported goods or materially increase their cost or reduce their value. This article has no counterpart in pre-Geneva agreements, and would require some changes in United States law.

#### Publication and administration of trade regulations

Signatories undertake to publicize such regulations so that private traders and foreign governments may become acquainted with them; to publish official notice of new or more burdensome requirements on imports either in advance or simultaneously with their application; and to establish or maintain tribunals to assure fair and equitable administration of trade regulations (art. X). The pre-Geneva agreements usually contain somewhat similar provisions relating to publication, but none of them provide for the maintenance of reviewing tribunals.

#### Quantitative restrictions

Articles XI to XV, inclusive, deal with the subject of quantitative restrictions (quotas). The first two deal with the general prohibition of quotas and the circumstances in which they may be employed, including the application of quotas for balance-of-payments reasons. The second two deal with nondiscriminatory (most-favored-nation) administration of those quotas which are permitted. Article XV provides, among other things, that the International Monetary Fund shall determine whether a country's balance-of-payments position warrants the application of quotas.

General elimination of quantitative restrictions.—Signatories subscribe in principle to the general elimination of quantitative restrictions (art. XI). The reference here is principally to import

quotas and import and export licenses. Various exceptions, however, are permitted by certain provisions of this article and of article XII. Quotas may be applied to imports of an agricultural product if the production or marketing of the like domestic product is subject to corresponding restriction; and export restrictions may be imposed to prevent or relieve critical shortages of foodstuffs or other products in the producing country.

The most important difference between the provisions of article XI and corresponding provisions of pre-Geneva agreements is that article XI generally prohibits the imposition of quantitative restrictions on imports of all products (subject to important exceptions set forth in this and other articles), whereas the pre-Geneva agreements include this prohibition only with respect to products listed in the schedules. Some pre-Geneva agreements include in the schedule of concessions granted to the United States liberalizations of quotas on imports from the United States of certain articles of special interest to this country. In such cases a minimum quota on imports from the United States is usually specified. The concession schedules of the Geneva agreement contain no provisions regarding quotas on individual articles. Under the Geneva agreement, quota regulation is governed solely by the general provisions.

Restrictions to safeguard the balance of payments.--When a country does not possess sufficient foreign exchange to pay for all the foreign goods its population would normally purchase, the country is authorized to limit its imports in accordance with its ability to pay for them (art. XII). Import restrictions designed solely to safeguard a country's balance-of-payments position, however, may be imposed by a country only "to the extent necessary (i) to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or (ii) in the case of a contracting party with very low monetary reserves, to achieve a reasonable rate of increase in its reserves."

The pre-Geneva agreements, concluded before balance-of-payments difficulties had been greatly intensified by World War II, do not contain this broad exception permitting quantitative restrictions for balance-of-payments reasons, nor the exceptions to the rule of non-discrimination (art. XIV), discussed later. However, most of the agreements negotiated after 1937 (the 1938 agreements with the United Kingdom and Canada being notable exceptions) permit quantitative restrictions to maintain the exchange value of the importing country's currency. Though addressed to part of the problem covered by article XII, these pre-Geneva provisions are of a much narrower scope.

Non-discriminatory administration of quantitative restrictions.--Article XIII is an extension of the general principle that trade restrictions shall not be discriminatory. Except as modified by article XIV, they must apply to the imports from, or the exports to, all countries. When allocations of import quotas are made among foreign suppliers, they must in general be on such a basis as to permit the various parties to the Geneva agreement to supply the same shares of the trade that they would have supplied had no quotas been imposed. Thus the country applying the quota may either (1) obtain agreement among all parties to the Geneva agreement on the proposed allocation or (2) allocate quotas on the basis of its imports in a



prior representative period. When import licenses are used in lieu of quotas, however, restrictions may not ordinarily be placed on the quantities that may be imported from a particular country or source.

The pre-Geneva agreements usually contain provisions for the non-discriminatory administration of quotas similar to those provided for in article XIII of the Geneva agreement.

Exceptions to the rule of non-discrimination.—Article XIV provides for several exceptions to the rule of nondiscrimination in the application of quotas. By protocol adopted at Habana, Cuba, on March 24, 1948, <sup>11/</sup> this article of the Geneva agreement was modified to bring it into accord with article 23 of the proposed charter for an International Trade Organization. The principal exceptions are stated in alternative form, the new provisions adopted at Habana being sometimes referred to as the Habana option and the provisions in the Geneva agreement being sometimes referred to as the Geneva option. The Habana option is stated in the body of article XIV (par. 1(b) and (c)), and the Geneva option is stated in a new annex J. To avail itself of the Geneva option, a contracting party must have signed the Protocol of Provisional Application before July 1, 1948, and filed before January 1, 1949, written notice that it will be governed by annex J. A contracting party is not permitted to employ either the Habana option or the Geneva option after the end of its postwar transitional period as provided for under article XIV of the Articles of Agreement of the International Monetary Fund <sup>12/</sup> or under an analogous provision of a special agreement pursuant to article XV of the Geneva agreement. A country that is not entitled to employ transitional period provisions is not permitted to use either the Habana or the Geneva option.

The Habana option permits quota discriminations having equivalent effect to exchange restrictions permitted under article XIV of the Fund Agreement, and also permits the continuance of other import discriminations in effect for balance-of-payments reasons on March 1, 1948.

The Geneva option permits a contracting party which employs balance-of-payments restrictions to discriminate against other contracting parties to the extent necessary to obtain additional imports above the total it could afford if it adhered strictly to the nondiscriminatory rules, provided (1) that delivered prices for products so imported are not "substantially higher" than those for which the products could be regularly obtained from such other contracting parties, (2) that the discriminating party does not divert to other countries an appreciable amount of its exports which it could have sold to hard-currency countries, and (3) that the discrimination "does not cause

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<sup>11/</sup> General Agreement on Tariffs and Trade, Protocols and Declaration Signed at Havana, on 24 March 1948, United Nations Publications Sales No.: 1948. IID. 5, Lake Success, N. Y., 1948.

<sup>12/</sup> Department of State, Treaties and Other International Acts Series 1501 (Pub. 2512), 1946, pp. 22-23.

unnecessary damage to the commercial or economic interests of any other contracting party."

The procedural provisions of the new article XIV of the General Agreement on Tariffs and Trade closely parallel those of article XIV of the Fund Agreement. Not later than March 1, 1950, and in each year thereafter, the CONTRACTING PARTIES <sup>14/</sup> must report on continuing discriminations (as the Fund is required to do for exchange restrictions); commencing in March 1952, any contracting party desiring to continue to discriminate must consult with the CONTRACTING PARTIES at least annually (as members of the Fund must do for exchange restrictions). Whether a contracting party employs the Habana option or the Geneva option, its policies must be designed to promote the maximum development of multilateral trade during its transitional period and to expedite the attainment of a balance-of-payments position which will no longer require resort to article XII or to transitional exchange arrangements.

The pre-Geneva agreements contain no counterpart of article XIV of the General Agreement on Tariffs and Trade.

Exchange arrangements.—Signatories to the Geneva agreement may not circumvent rules applicable to quantitative trade restrictions by resorting to exchange arrangements (art. XV) or controls through which similar trade discriminations could be accomplished. Accordingly, the signatories are required either to become members of the International Monetary Fund or to enter into separate exchange agreements with the other signatories to the Geneva agreement, which exchange agreements would contain substantially the same safeguards governing exchange controls as those found in the Fund agreement. In event of disagreement as to whether a country may properly resort to import restrictions to protect its balance-of-payments position, signatories agree, in effect, to accept the Fund's determination in the matter.

No counterpart of article XV is contained in the pre-Geneva agreements, although the agreements negotiated after 1938 usually had a special exchange article providing for nondiscriminatory administration of exchange regulations.

#### Subsidies

If signatories grant or maintain subsidies (art. XVI) which increase exports or reduce imports, they are required to notify the other contracting parties of the extent and nature of the subsidies. If these subsidies seriously prejudice the interests of any such other party or parties, the signatory which grants the subsidies is required to "discuss" with the other party or parties concerned "the possibility of limiting the subsidization."

The pre-Geneva agreements contain no counterpart of article XVI, but they do contain provisions for consultation respecting matters concerning the nullification or impairment of any object of the agreements.

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<sup>14/</sup> Whenever the Geneva agreement refers to the parties acting jointly, it refers to them as "CONTRACTING PARTIES" (in capital letters); see article XXV, discussed below.

Non-discriminatory treatment on the part of  
state trading enterprises

The purpose of article XVII is to require state trading enterprises to act in accordance with the same general principles of non-discriminatory treatment which are prescribed for governmental measures applicable to private traders engaged in foreign trade. Such enterprises are required, in effect, to be governed in their purchases and sales affecting imports and exports by the same commercial considerations as private traders. The general rules applicable to state trading, however, do not apply to ordinary purchases by a government for its own use, as for its armed forces or for strategic stock piling.

The pre-Geneva agreements usually contain provisions regarding fair and equitable treatment by government monopolies engaged in import trade. They do not contain provisions dealing specifically with government monopolies engaged in export trade.

Adjustments in connection with economic development

The Geneva agreement gives recognition to the possible need for underdeveloped countries to employ restrictive trade measures which are forbidden by the agreement in ordinary circumstances in order to make adjustments in connection with economic development, such as those necessary to establish, develop, or reconstruct particular industries (art. XVIII). Signatories which were already employing such measures adopted on or before September 1, 1947, may continue to employ them pending later examination by all contracting parties, but other signatories desiring to embark upon such programs may not do so until they have received approval of the other contracting parties. The pre-Geneva agreements contain no counterpart of article XVIII.

Emergency action on imports of particular products

Article XIX is commonly referred to as the "escape clause." If, for example, a trade concession should contribute to such an expansion of imports as to cause or threaten serious injury to the producers of the country which originally granted the concession, remedial action by that country is permitted. The concession may be withdrawn or modified by its unilateral action. The other countries which are affected by this action must ordinarily be consulted before the action is taken, with a view to obtaining their approval, although in critical circumstances the action may be taken provisionally without prior consultation, in which case consultation must be effected immediately thereafter. If approval for the action cannot be obtained, the action may nevertheless be taken, or if already taken, may be continued; but the adversely affected parties may thereupon withdraw equivalent concessions from the country taking the action. The foregoing provisions are in accord with the requirements of Executive Order 9832, issued February 25, 1947.

Trade agreements which the United States entered into before the agreement with Mexico, effective in 1943, contain no counterpart of article XIX. The most frequently used escape clause in the pre-Geneva agreements is the third-country clause, under which the right is reserved to withdraw a concession or impose quotas if the main benefit of the concession inures to a third country and if the industries of the importing country are being damaged as a result thereof.

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This clause, however, appears in only eight agreements (the agreements with Canada and those with most European countries). It has been invoked twice. Many pre-Geneva agreements also contain a clause which authorizes either contracting party to propose negotiations for modifying the agreement, or to terminate the agreement on 30 days' notice, if it considers that its commerce or industries have been prejudiced in consequence of wide variation in the rates of exchange between the currencies of the contracting parties. The United States, however, has never invoked this clause.

#### General exceptions

In addition to the exceptions permitted in various special circumstances, the Geneva agreement provides for a number of general exceptions such as those which are customarily incorporated in international agreements or which were designed to meet conditions peculiar to the transitional period (art. XX). For example, nothing in the Geneva agreement may be construed so as to prevent a country from enforcing measures as to imports or exports necessary to protect public morals, or human, animal, and plant life or health (sanitary regulations); measures to enforce customs regulations, protect patents, and prevent deceptive practices; measures to conserve national treasures and exhaustible natural resources; and measures undertaken in pursuance of obligations under international commodity agreements. During a period ending on January 1, 1951 (but subject to extension by agreement), other measures may also be employed, such as those essential to assure an equitable distribution of articles in short supply, to maintain price controls in countries undergoing shortages subsequent to the war, or to permit the orderly liquidation of surpluses of goods or industries brought about by exigencies of the war.

Most of the exceptions relating to control of imports which appear in article XX also appear in the pre-Geneva agreements, but they contain no provisions similar to those in article XX concerning permissible export regulations. The exceptions permitted under the Geneva agreement until January 1, 1951, result from the aftermath of war; naturally they have no counterpart in the pre-Geneva agreements.

#### Security exceptions

The general provisions are also subject to a number of security exceptions (art. XXI). For example, no signatory to the Geneva agreement is required to furnish information the disclosure of which it feels would jeopardize its security interests; and no signatory is prevented from taking any action which it considers necessary to protect its essential security interests relating to fissionable materials, or to traffic in arms, ammunition, and implements of war; any action in time of war or other emergency in international relations; or any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security. The pre-Geneva agreements also contain broad security exceptions.

#### Consultation

All signatories to the Geneva agreement are required to accord adequate opportunity for consultation regarding representations by any other contracting party as to the operation of customs regulations and formalities, antidumping and countervailing duties, a

number of other matters specifically mentioned, and "generally all matters affecting the operation of this agreement" (art. XXII). The pre-Geneva agreements also contain broad provisions for consultation.

#### Nullification or impairment

The Geneva agreement recognizes that benefits which are intended to accrue to signatories may be subject to nullification or impairment as a result of failure of some other contracting party (or parties) to carry out its obligations under the Geneva agreement (art. XXIII). Nullification or impairment of intended benefits might result even from an action which did not breach a specific provision of the Geneva agreement. Accordingly, the Geneva agreement provides that any party which considers that the benefits it derives from the Geneva agreement have been impaired in the foregoing circumstances may make representations to the other contracting party or parties concerned. Any contracting party thus approached is required to give sympathetic consideration to the representations or proposals made to it. If a satisfactory adjustment cannot be reached between the contracting parties directly concerned, the matter may be referred to all parties to the agreement. In serious circumstances, one or more of the contracting parties might even be authorized by majority vote of the CONTRACTING PARTIES acting as a group to suspend the application to any other contracting party or parties of such obligations or concessions under the Geneva agreement as may be deemed appropriate. The party or parties against which such action is directed would be free to withdraw from the Geneva agreement on 60 days' notice.

The provisions of the pre-Geneva agreements which apply to consultation cover part of the subject matter of article XXIII. Under those bilateral agreements a party could be relieved of its obligations to the other party only with the consent of that party or by terminating the agreement as a whole, whereas under the provisions of the Geneva agreement a party may be relieved of its obligation to another party without that particular party's concurrence, provided a majority of the other CONTRACTING PARTIES determine that the circumstances warrant such release. A member against which action is taken in contravention of the other articles of the agreement, however, may withdraw from the entire agreement on 60 days' notice.

#### Part III. Procedural and Related Matters

The provisions in part III (arts. XXIV-XXXIV) of the Geneva agreement differ considerably from corresponding provisions in pre-Geneva agreements. Many of these differences are attributable to the fact that the Geneva agreement is multilateral whereas all the others are bilateral.

#### Territorial application--frontier traffic-- customs unions

Article XXIV provides inter alia that the terms of the agreement shall apply to the customs territories of each of the signatories. For the purposes of this article, a customs territory is defined as

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any territory with respect to which separate tariffs or other regulations of commerce are maintained for a substantial part of the trade of such territory. Measures designed to facilitate frontier traffic between adjacent countries may be established or continued. An additional important provision permits any of the contracting parties to enter into a customs union with one another or with countries not parties to the agreement and, in anticipation thereof, to adopt an interim agreement under which they may engage in preferential trade relations with each other. <sup>15/</sup> Any duties or other regulations established under arrangements of these types, which are applicable to imports from other contracting parties, however, may not on the whole be higher or more restrictive than those which were applicable prior thereto in the constituent territories. Certain supervisory powers are reserved to the CONTRACTING PARTIES (i.e., the parties acting jointly, see art. XXIV) to assure that any interim agreement shall lead to the establishment of a customs union within a reasonable length of time.

The pre-Geneva agreements, though not nearly so detailed as article XXIV, contain certain exceptions with respect to frontier traffic and customs unions. They do not specifically permit interim agreements leading to the formation of customs unions; on the other hand they do not define customs unions in the narrow sense in which they are defined in the Geneva agreement.

#### Joint action by the contracting parties

In order to give effect to those provisions of the Geneva agreement that involve joint action and generally to facilitate the operation of the agreement, a provision is made for joint action by the contracting parties (art. XXV). Whenever the Geneva agreement refers to the parties acting jointly, it refers to them as "CONTRACTING PARTIES" (in capital letters). The administration of many general provisions of the Geneva agreement involves consultation and a determination as to what may be done under their terms. Because of the multilateral character of the Geneva agreement, some cases would require consultation among all parties to the agreement, and others, consultation among only a few of the contracting parties. The joint action here permitted by the CONTRACTING PARTIES authorizes determination of issues, by majority vote of the CONTRACTING PARTIES, each contracting party, except as otherwise provided, to be entitled to one vote at all meetings. The CONTRACTING PARTIES may by two-thirds majority vote representing more than half of the contracting parties waive any obligation imposed upon any contracting party or parties by the Geneva agreement.

The pre-Geneva agreements provide for consultation and cooperation with a view to furthering the objects of the agreements. Since they were bilateral agreements, there was no occasion in them for provisions respecting formal meetings of the contracting parties. Under those agreements, a contracting party could be relieved of its obligations to the other only with the consent of the other, but under the multilateral Geneva agreement a contracting party may be relieved of its obligations to any other member by the procedure set forth above.

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<sup>15/</sup> At the meeting of the contracting parties in Habana, Cuba, which concluded on March 24, 1948, an amendment to this article was adopted which would permit also free-trade areas and preferential interim agreements looking to the creation of such areas. This provision may become of importance in the implementation of the Marshall plan.

Acceptance, entry into force and registration

Article XXVI provides that each country which subscribes to the Geneva agreement shall deposit a formal instrument of acceptance with the Secretary-General of the United Nations; and that the agreement shall enter into full force and effect—subject to the qualification hereinafter described—30 days after instruments of acceptance have been received from subscribing countries whose external trade accounts for 85 percent or more of the external trade of all signatories to the agreement. The qualification mentioned above stipulates that in the event of disagreement among the CONTRACTING PARTIES as to whether certain specified provisions of the Geneva agreement shall govern or, alternately, the corresponding provisions of the proposed charter for the International Trade Organization, the agreement shall not enter into force until such disagreement is resolved. The Secretary-General of the United Nations is authorized to register the Geneva agreement when it enters into force. <sup>16/</sup>

Withholding or withdrawal of concessions

Recognition is given to the possibility that one or more of the signatories may fail to apply the agreement, either by withdrawing from it or in other ways (art. XXVII). In such circumstances, the other contracting parties may take action with a view to the withholding or withdrawal of concessions initially negotiated with a government which does not apply the agreement. Notice of such action, however, must be given to the other parties to the agreement and, if they so request, a consultation with regard to the withdrawal must be held with such other parties as have a substantial interest in the product concerned.

Modification of schedules

Provision is made for the modification of schedules beginning January 1, 1951, without requiring joint action by the contracting powers (art. XXVIII). Commencing with that date, any party may withdraw or modify a concession which it originally granted. The party desiring to do so, however, is first required to negotiate and seek agreement for the change with the party with which the concession was originally negotiated; and is required also to consult with other parties having a substantial interest in the concession. If agreement cannot be reached, the concession in question may nevertheless be withdrawn or modified; the country to which the concession was originally granted, and the other parties having a substantial interest in the concession, may then withdraw from the party taking the action concessions substantially equivalent to those initially negotiated with it.

The pre-Geneva agreements do not contain specific provision for partial renegotiation of agreements such as is contained in article XXVIII.

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<sup>16/</sup> Article XXVI deals with definitive or final entry into force. Actually the agreement entered into force provisionally on January 1, 1948, except that the provisions of part II contravening existing legislation did not become binding at that time.

Relation of this [Geneva] agreement to the charter  
for an International Trade Organization

Most of the general provisions of the Geneva agreement closely resemble the corresponding provisions recommended by the Preparatory Committee for inclusion in the proposed charter for an International Trade Organization as drafted at Geneva; and virtually all countries which signed the Geneva agreement participated in drafting the charter. If the charter as revised at Habana, Cuba, should be adopted and ratified, a large number of countries would be bound under two different, concurrently running, international agreements which cover much the same subject matter. Accordingly, the article of the Geneva agreement which sets forth the relation of that agreement to the charter for an International Trade Organization (art. XXIX) provides that on the day the charter enters into force, article I (most-favored-nation provision) and all of part II (general commercial policy) of the Geneva agreement shall be suspended and superseded by the corresponding provisions of the charter. Any party to the Geneva agreement, however, may lodge an objection with the other contracting parties to the superseding of any provision of the Geneva agreement by a provision of the charter. Such objection must be made within 60 days after the end of the United Nations Conference on Trade and Employment which opened in Habana, Cuba, on November 21, 1947, and ended March 24, 1948.<sup>17/</sup> If any such objection is lodged, the contracting parties are required to meet (within 60 days after the final date for lodging objections) to determine whether the provisions of the charter which are complained of or the corresponding provisions of the agreement shall apply. The contracting parties are also required to reach agreement concerning the transfer to the International Trade Organization of the function described in article XXV (joint action by the contracting parties) of the General Agreement.

Article XXIX also provides that, pending adoption of a charter for the International Trade Organization by the signatories to the Geneva agreement, they will observe to the fullest extent of their executive authority the general principles of the Habana charter. Should the charter, after it has entered into force, not be adopted by a given signatory to the Geneva agreement, the contracting parties thereto are required to confer and to agree whether, and if so in what way, the agreement, insofar as it affects relations between the contracting party which has not accepted the charter and the other contracting parties, shall be amended or supplemented.

Amendments

The following provisions are made for amendments (art. XIX) to the Geneva agreement: Changes in part I of the Geneva agreement (which relates to most-favored-nation provisions and the tariff schedules) and in the article discussed in the preceding paragraph

<sup>17/</sup> All governments which signed the Final Act of the Geneva Conference authenticating the General Agreement on Tariffs and Trade (except Australia, China, Czechoslovakia, Southern Rhodesia, and the Union of South Africa) signed a declaration at Habana on March 24, 1948, that they "will not lodge any such objection to the suspension and supersession of paragraphs 1 and 2 of article I and part II of the General Agreement on Tariffs and Trade" (General Agreement on Tariffs and Trade, Protocols and Declaration Signed at Havana, on 24 March 1948, United Nations Publications Sales No.: 1948. II D. 5, Lake Success, N.Y., 1948) .



(art. XXIX) require acceptance by all contracting parties. Amendments to other provisions of the Geneva agreement shall, except as otherwise specifically provided, become effective for those parties which accept them as soon as two-thirds of the contracting parties shall approve them.

#### Withdrawal

The provision for withdrawal (art. XXXI) stipulates that any contracting party is free to withdraw from the Geneva agreement (on behalf of either itself or any separate customs territories for which it has international responsibility) at any time beginning January 1, 1951, <sup>18/</sup> upon giving 6 months' written notice to the Secretary-General of the United Nations. Most pre-Geneva agreements provide for their termination, on 6 months' notice, at the end of 3 years from their effective dates. <sup>19/</sup>

#### Contracting parties

Article XXXII defines the contracting parties as those which apply the provisions of the Geneva agreement definitively under article XXVI or pursuant to the Protocol of Provisional Application.

#### Accession

Provision is made for accession (art. XXXIII) to the Geneva agreement by governments which did not participate in the negotiation of the agreement at Geneva in 1947. The terms under which such accession shall take place are subject to agreement between the acceding country and all the countries which are contracting parties to the Geneva agreement at that time. <sup>20/</sup>

#### Annexes

The annexes (art. XXXIV) constitute an integral part of the Geneva agreement. They consist of various lists of territories (such as those constituting preferential trading areas or customs unions); dates and percentage computations which are referred to in the preceding provisions of the Geneva agreement; and a number of definitions of terms used and interpretations of various provisions of the agreement. Most of these definitions and interpretations also appear in the Geneva draft of the charter for the International Trade Organization.

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<sup>18/</sup> That is, 3 years after the Geneva agreement entered into force provisionally. This time limit, therefore, conforms to the requirements of the Trade Agreements Act.

<sup>19/</sup> The Trade Agreements Act provides that every trade agreement shall be subject to termination at the end of not more than 3 years from its effective date, and, if not then terminated, shall be subject to termination upon not more than 6 months' notice. Although most agreements provide for initial terms of 3 years, 12 agreements provide for shorter initial terms. All agreements except one provide for their termination on 6 months' notice in ordinary circumstances, and on shorter notice in special circumstances.

<sup>20/</sup> By agreement of the contracting parties at Habana, Cuba, on March 24, 1948, this article provides for accession if approved by two-thirds of the CONTRACTING PARTIES.

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SCHEDULES OF TARIFF CONCESSIONS  
IN GENEVA AGREEMENT

## Arrangement and General Nature

The tariff concessions which each signatory to the Geneva agreement undertakes to extend to all other signatories of that agreement are set forth in 20 separate tariff schedules, one for each country or group of countries participating. <sup>21/</sup> Each schedule identifies the items on which tariff concessions are granted and fixes the tariff status of each item. Most schedules list the tariff concessions applicable to imports into a single country only; other schedules list concessions which are applicable to imports into groups of countries comprising customs unions; and still other schedules list several subschedules each applicable to a separate customs area under the jurisdiction of some metropolitan area. Schedule II, for example, lists the tariff concessions made by the Belgium-Luxembourg-Netherlands Customs Union (Benelux) on behalf of the metropolitan areas comprising that union and also the colonial areas of Belgium and the Netherlands; and schedule XVII sets forth the concessions by the Syro-Lebanese Customs Union. Schedule XI specifies the concessions made by France on behalf of each of the various customs areas comprising the so-called French Union (i.e., the metropolitan territory of France and 13 separate colonial areas); and schedule XIX specifies the concessions by the United Kingdom on behalf of itself and four other separate customs areas under its jurisdiction. The remaining 16 tariff schedules, including that of the United States (schedule XX), set forth the concessions made by each country on behalf of its own metropolitan area only.

Schedules which have application to imports into several different customs areas, such as the schedule of the French Union, are divided into as many lettered sections (e.g., section A, section B, etc.) as there are separate customs areas covered in the schedule. Concessions applicable to imports into each customs area--whether a metropolitan area or a colonial area--are further subdivided if that area engages in preferential trade with any other area. In such circumstances, part I of the schedule lists the most-favored-nation rates, and part II lists the preferential rates, which usually apply to only a small part of the items enumerated in part I. Eleven of the 20 schedules contain enumerations under both parts I and II--which means that 9 of the 20 schedules provide for most-favored-nation treatment for all imports.

The schedules which contain both parts I and II (i.e., both most-favored-nation rates and preferential rates) are as follows:

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<sup>21/</sup> The number of schedules is greater by one than the number of final negotiating units listed in table 2 above. The explanation is that, although Pakistan did not negotiate separately, it signed the agreement separately and issued its own tariff schedule. That schedule (XV), however, is identical with India's (XII).

<u>Schedule</u>	<u>Country</u>
I -----	Commonwealth of Australia
V -----	Canada
VI -----	Ceylon
IX -----	Republic of Cuba
XI -----	French Union
XII -----	India
XIII -----	New Zealand
XV -----	Pakistan
XVIII -----	Union of South Africa
XIX -----	United Kingdom of Great Britain and Northern Ireland
XX -----	United States of America

The schedules which provide for most-favored-nation treatment exclusively are as follows:

<u>Schedule</u>	<u>Country</u>
II -----	Belgium-Luxembourg-Netherlands
III -----	United States of Brazil
IV -----	Burma
VII -----	Republic of Chile
VIII -----	Republic of China
X -----	Czechoslovak Republic
XIV -----	Kingdom of Norway
XVI -----	Southern Rhodesia
XVII -----	Syro-Lebanese Customs Union

#### Benefits of Scheduled Concessions to the Signatory Countries

Under the terms of the Geneva agreement each signatory is entitled in its own right to all of the concessions granted by each other signatory. No signatory has to claim the benefit of any concession only by virtue of the most-favored-nation provision of this agreement itself or of most-favored-nation agreements with individual signatory countries.

This arrangement differs from that provided for in the pre-Geneva agreements made by the United States. As regards concessions granted by the United States, each such agreement, in itself, merely makes them applicable to the imports from the other party to the agreement. The extension of these concessions to third countries depends entirely on the legislation of the United States or on its most-favored-nation agreements with such third countries. Similarly, concessions granted by the other contracting party to a pre-Geneva agreement are concessions only to the United States, and their extension to third countries depends on legislation of that party or its agreements with such countries.

Many individual concessions granted by a given country in the Geneva agreement are in fact of benefit only to a limited number of the signatories. Thus many signatory countries have not been, and

are not likely to become, suppliers of imports to the United States of a large number of commodities on which the United States has granted concessions; they therefore gain nothing directly from such concessions. Likewise, some of the concessions granted by each of the other contracting parties are of no direct benefit to the United States. The proportion of the concessions which directly benefit the United States, is much larger for some countries than for others. The United States is, however, a producer and exporter of a wide variety of articles, and thus the direct benefits to it from the concessions in the Geneva agreement are numerous and widespread, although individual concessions differ greatly in the magnitude of the advantage involved. Moreover, concessions which are of no direct benefit to the United States may be of indirect benefit because their direct benefit to other countries increases the buying power of those countries and hence their purchases of United States goods.

On the other hand, the benefit of scheduled concessions may be lessened or altogether nullified by actions permitted under specified circumstances by various general provisions of the agreement, such as the provisions relating to quantitative restrictions on imports, to economic development of underdeveloped countries, and to the escape clause.

The nature and magnitude of the concessions granted and received by the United States in the Geneva agreement are analyzed in parts III and IV, respectively, of this report.

#### BILATERAL AGREEMENTS WHICH ACCOMPANIED THE GENEVA AGREEMENT

On the same day the Geneva agreement was signed (October 30, 1947), the United States negotiated supplementary bilateral agreements with the following countries: Belgo-Luxembourg Economic Union; Canada; Cuba, <sup>22/</sup> France, the Netherlands, and the United Kingdom. These supplementary agreements provide for suspension of the trade agreements previously in force between the United States and those countries. Those earlier trade agreements are to remain inoperative only as long as the United States and each of the countries concerned are both contracting parties to the Geneva agreement. <sup>23/</sup> Consequently, if the Geneva agreement should fail to come into full force, or if the United States or any of the parties with which it negotiated supplementary agreements on October 30, 1947, should fail to become, or should cease to be, contracting parties to the General Agreement, one or more of the earlier trade agreements would be revived. Such revival, moreover, would not be contingent upon further extension of the Trade Agreements Act.

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<sup>22/</sup> Two protocols to the supplementary agreement with Cuba of October 30, 1947, were subsequently entered into for the purpose of amending certain details in the provisions thereof.

<sup>23/</sup> As defined in article XXXII of that agreement.

PRESENT STATUS OF UNITED STATES  
TRADE AGREEMENTS

On April 1, 1948, the United States was a party to trade agreements, negotiated under authority of the Trade Agreements Act, with 41 foreign countries. These countries may be classified in four groups as follows:

1. Countries (7) with which pre-Geneva agreements have been superseded by the Geneva agreement

Belgium	France
Canada	Luxembourg
Cuba	Netherlands
	United Kingdom

All these countries put the Geneva agreement into effect provisionally on January 1, 1948.

2. Countries (14) with which the United States had no previous agreement in force when the Geneva agreement came into effect

Australia	Lebanon
Burma	New Zealand
Ceylon <sup>24/</sup>	Norway
Chile	Pakistan
China	Southern Rhodesia
Czechoslovakia	Syria
India	Union of South Africa

Of the foregoing countries, only Australia put the Geneva agreement into effect provisionally on January 1, 1948. None of the others have as yet (April 1, 1948) put it into effect. <sup>25/</sup>

3. Countries (1 only) which are parties to the Geneva agreement but with which a pre-Geneva agreement remains in effect until they put the Geneva agreement into effect

Brazil (pre-Geneva agreement became effective on January 1, 1936)

4. Countries (19) not parties to the Geneva agreement with which the United States has trade agreements

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<sup>24/</sup> Ceylon first became a signatory to a trade agreement with the United States when it signed the Geneva agreement, but prior thereto its trade with the United States was governed by the trade agreement between the United States and the United Kingdom.

<sup>25/</sup> Czechoslovakia signed the protocol on March 21, 1948, putting the agreement into effect provisionally on April 21, 1948; and, under a proclamation of the President of the United States, the United States concessions negotiated with Czechoslovakia became effective on April 21, 1948.

## TRADE AGREEMENTS PROGRAM TO APRIL 1948

<u>Country</u>	<u>Effective date of agreement</u>	<u>Country</u>	<u>Effective date of agreement</u>
Argentina ---	Nov. 15, 1941	Iceland -----	Nov. 19, 1943
Colombia ----	May 20, 1936	Iran -----	June 28, 1944
Costa Rica --	Aug. 2, 1937	Mexico -----	Jan. 30, 1943
Ecuador -----	Oct. 23, 1938	Paraguay ----	Apr. 9, 1947
El Salvador -	May 31, 1937	Peru -----	July 29, 1942
Finland -----	Nov. 2, 1936	Sweden -----	Aug. 5, 1935
Guatemala ---	June 15, 1936	Switzerland -	Feb. 15, 1936
Haiti -----	June 3, 1935	Turkey -----	May 5, 1939
Honduras ----	Mar. 2, 1936	Uruguay -----	Jan. 1, 1943
		Venezuela ---	Dec. 16, 1939

APPENDICES

APPENDIX A

MESSAGE FROM THE PRESIDENT (MARCH 2, 1934) TRANSMITTING A REQUEST TO  
AUTHORIZE THE EXECUTIVE TO ENTER INTO EXECUTIVE COMMERCIAL AGREEMENTS WITH FOREIGN NATIONS

[H. Doc. 273, 73d Cong., 2d sess.]

To the Congress:

I am requesting the Congress to authorize the Executive to enter into executive commercial agreements with foreign nations; and in pursuance thereof within carefully guarded limits to modify existing duties and import restrictions in such a way as will benefit American agriculture and industry.

This action seems opportune and necessary at this time for several reasons.

First, world trade has declined with startling rapidity. Measured in terms of the volume of goods in 1933, it has been reduced to approximately 70 percent of its 1929 volume; measured in terms of dollars, it has fallen to 35 percent. The drop in the foreign trade of the United States has been even sharper. Our exports in 1933 were but 52 percent of the 1929 volume, and 32 percent of the 1929 value.

This has meant idle hands, still machines, ships tied to their docks, despairing farm households, and hungry industrial families. It has made infinitely more difficult the planning for economic readjustment in which the Government is now engaged.

You and I know that the world does not stand still; that trade movements and relations once interrupted can with the utmost difficulty be restored; that even in tranquil and prosperous times there is a constant shifting of trade channels.

How much greater, how much more violent is the shifting in these times of change and of stress is clear from the record of current history. Every nation must at all times be in a position quickly to adjust its taxes and tariffs to meet sudden changes and avoid severe fluctuations in both its exports and its imports.

You and I know, too, that it is important that the country possess within its borders a necessary diversity and balance to maintain a rounded national life, that it must sustain activities vital to national defense and that such interests cannot be sacrificed for passing advantage. Equally clear is the fact that a full and permanent domestic recovery depends in part upon a revived and strengthened international trade and that American exports cannot be permanently increased without a corresponding increase in imports.

Second, other governments are to an ever-increasing extent winning their share of international trade by negotiated reciprocal trade agreements. If American agricultural and industrial interests are to retain their deserved place in this trade, the American Government must be in a position to bargain for that place with other



governments by rapid and decisive negotiation based upon a carefully considered program, and to grant with discernment corresponding opportunities in the American market for foreign products supplementary to our own.

If the American Government is not in a position to make fair offers for fair opportunities, its trade will be superseded. If it is not in a position at a given moment rapidly to alter the terms on which it is willing to deal with other countries, it cannot adequately protect its trade against discriminations and against bargains injurious to its interests. Furthermore a promise to which prompt effect cannot be given is not an inducement which can pass current at par in commercial negotiations.

For this reason, any smaller degree of authority in the hands of the Executive would be ineffective. The executive branches of virtually all other important trading countries already possess some such power.

I would emphasize that quick results are not to be expected. The successful building up of trade without injury to American producers depends upon a cautious and gradual evolution of plans.

The disposition of other countries to grant an improved place to American products should be carefully sounded and considered; upon the attitude of each must somewhat depend our future course of action. With countries which are unwilling to abandon purely restrictive national programs, or to make concessions toward the reestablishment of international trade, no headway will be possible.

The exercise of the authority which I propose must be carefully weighed in the light of the latest information so as to give assurance that no sound and important American interest will be injuriously disturbed. The adjustment of our foreign-trade relations must rest on the premise of undertaking to benefit and not to injure such interests. In a time of difficulty and unemployment such as this, the highest consideration of the position of the different branches of American production is required.

From the policy of reciprocal negotiation which is in prospect, I hope in time that definite gains will result to American agriculture and industry.

Important branches of our agriculture, such as cotton, tobacco, hog products, rice, cereal, and fruit raising, and those branches of American industry whose mass production methods have led the world, will find expanded opportunities and productive capacity in foreign markets, and will thereby be spared in part, at least, the heartbreaking readjustments that must be necessary if the shrinkage of American foreign commerce remains permanent.

A resumption of international trade cannot but improve the general situation of other countries, and thus increase their purchasing power. Let us well remember that this in turn spells increased opportunity for American sales.

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Legislation such as this is an essential step in the program of national economic recovery which the Congress has elaborated during the past year. It is part of an emergency program necessitated by the economic crisis through which we are passing. It should provide that the trade agreements shall be terminable within a period not to exceed 3 years; a shorter period probably would not suffice for putting the program into effect. In its execution, the Executive must, of course, pay due heed to the requirements of other branches of our recovery program, such as the National Industrial Recovery Act.

I hope for early action. The many immediate situations in the field of international trade that today await our attention can thus be met effectively and with the least possible delay.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,  
March 2, 1934.

#### APPENDIX B

#### TRADE AGREEMENTS ACT OF JUNE 12, 1934

[48 Stat. 943; 19 U.S.C. 1351-1354]

An Act

To amend the Tariff Act of 1930.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Tariff Act of 1930 is amended by adding at the end of title III the following:

#### "Part III--Promotion of Foreign Trade

"Sec. 350. (a) For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in the present emergency in restoring the American standard of living, in overcoming domestic unemployment and the present economic depression, in increasing the purchasing power of the American public, and in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce) by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States, the President, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United

States and that the purpose above declared will be promoted by the means hereinafter specified, is authorized from time to time--

"(1) To enter into foreign trade agreements with foreign governments or instrumentalities thereof; and

"(2) To proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and for such minimum periods, of existing customs or excise treatment of any article covered by foreign trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder. No proclamation shall be made increasing or decreasing by more than 50 per centum any existing rate of duty or transferring any article between the dutiable and free lists. The proclaimed duties and other import restrictions shall apply to articles the growth, produce, or manufacture of all foreign countries, whether imported directly, or indirectly: Provided, That the President may suspend the application to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts or policies which in his opinion tend to defeat the purposes set forth in this section; and the proclaimed duties and other import restrictions shall be in effect from and after such time as is specified in the proclamation. The President may at any time terminate any such proclamation in whole or in part.

"(b) Nothing in this section shall be construed to prevent the application, with respect to rates of duty established under this section pursuant to agreements with countries other than Cuba, of the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or to preclude giving effect to an exclusive agreement with Cuba concluded under this section, modifying the existing preferential customs treatment of any article the growth, produce, or manufacture of Cuba: Provided, That the duties payable on such an article shall in no case be increased or decreased by more than 50 per centum of the duties now payable thereon.

"(c) As used in this section, the term 'duties and other import restrictions' includes (1) rate and form of import duties and classification of articles, and (2) limitations, prohibitions, charges, and exactions other than duties, imposed on importation or imposed for the regulation of imports."

Sec. 2. (a) Subparagraph (d) of paragraph 369, the last sentence of paragraph 1402, and the provisos to paragraphs 371, 401, 1650, 1687, and 1803 (1) of the Tariff Act of 1930 are repealed. The provisions of sections 336 and 516 (b) of the Tariff Act of 1930 shall not apply to any article with respect to the importation of which into the United States a foreign trade agreement has been concluded pursuant to this Act, or to any provision of any such agreement. The third paragraph of section 311 of the Tariff Act of 1930 shall apply to any agreement concluded pursuant to this Act to the extent only that such agreement assures to the United States a rate of duty on wheat flour produced in the United States which is preferential in respect to the lowest rate of duty imposed by the country with which such agreement has been concluded on like flour produced in any other

country; and upon the withdrawal of wheat flour from bonded manufacturing warehouses for exportation to the country with which such agreement has been concluded, there shall be levied, collected, and paid on the imported wheat used, a duty equal to the amount of such assured preference.

(b) Every foreign trade agreement concluded pursuant to this Act shall be subject to termination, upon due notice to the foreign government concerned, at the end of not more than three years from the date on which the agreement comes into force, and, if not then terminated, shall be subject to termination thereafter upon not more than six months' notice.

(c) The authority of the President to enter into foreign trade agreements under section 1 of this Act shall terminate on the expiration of three years from the date of the enactment of this Act.

Sec. 3. Nothing in this Act shall be construed to give any authority to cancel or reduce, in any manner, any of the indebtedness of any foreign country to the United States.

Sec. 4. Before any foreign trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this Act, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe; and before concluding such agreement the President shall seek information and advice with respect thereto from the United States Tariff Commission, the Departments of State, Agriculture, and Commerce and from such other sources as he may deem appropriate.

Approved, June 12, 1934, 9:15 p.m.

#### APPENDIX C

#### EXTENSION OF TRADE AGREEMENTS ACT, JULY 5, 1945

[59 Stat. 410; 19 U.S.C. 1351-1354]

#### An Act

To extend the authority of the President under section 350 of the Tariff Act of 1930, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930, as amended and extended, is hereby extended for a further period of three years from June 12, 1945.

Sec. 2. (a) The second sentence of subsection (a) (2) of such section, as amended (U.S.C., 1940 edition, Supp. IV, title 19, sec. 1351 (a) (2) ), is amended to read as follows: "No proclamation shall be made increasing or decreasing by more than 50 per centum any rate of duty, however established, existing on January 1, 1945 (even though temporarily suspended by Act of Congress), or transferring any article between the dutiable and free lists."

(b) The proviso of subsection (b) of such section (U.S.C., 1940 edition, sec. 1351 (b) ) is amended to read as follows: "Provided, That the duties on such an article shall in no case be increased or decreased by more than 50 per centum of the duties, however established, existing on January 1, 1945 (even though temporarily suspended by Act of Congress)".

Sec. 3. Such section 350 is further amended by adding at the end thereof a new subsection to read as follows:

"(d) (1) When any rate of duty has been increased or decreased for the duration of war or an emergency, by agreement or otherwise, any further increase or decrease shall be computed upon the basis of the post-war or post-emergency rate carried in such agreement or otherwise.

"(2) Where under a foreign trade agreement the United States has reserved the unqualified right to withdraw or modify, after the termination of war or an emergency, a rate on a specific commodity, the rate on such commodity to be considered as 'existing on January 1, 1945' for the purpose of this section shall be the rate which would have existed if the agreement had not been entered into.

"(3) No proclamation shall be made pursuant to this section for the purpose of carrying out any foreign trade agreement the proclamation with respect to which has been terminated in whole by the President prior to the date this subsection is enacted."

Sec. 4. Section 4 of the Act entitled "An Act to amend the Tariff Act of 1930", approved June 12, 1934 (U.S.C., 1940 edition, title 19, sec. 1354), relating to the governmental agencies from which the President shall seek information and advice with respect to foreign trade agreements, is amended by inserting after "Departments of State," the following: "War, Navy,".

Approved July 5, 1945.

APPENDIX D

EXECUTIVE ORDER 9832 (FEBRUARY 25, 1947), PRESCRIBING PROCEDURES FOR  
THE ADMINISTRATION OF THE RECIPROCAL TRADE AGREEMENTS PROGRAM

[12 F.R. 1363-1365]

By virtue of the authority vested in me by the Constitution and statutes, including section 332 of the Tariff Act of 1930 (46 Stat. 698) and the Trade Agreements Act approved June 12, 1934, as amended (48 Stat. 943; 59 Stat. 410), in the interest of the foreign affairs functions of the United States and in order that the interests of the various branches of American production shall be effectively safeguarded in the administration of the trade-agreements program, it is hereby ordered as follows:

Part I

1. There shall be included in every trade agreement hereafter entered into under the authority of said act of June 12, 1934, as amended, a clause providing in effect that if, as a result of unforeseen developments and of the concession granted by the United States on any article in the trade agreement, such article is being imported in such increased quantities and under such conditions as to cause, or threaten, serious injury to domestic producers of like or similar articles, the United States shall be free to withdraw the concession, in whole or in part, or to modify it, to the extent and for such time as may be necessary to prevent such injury.

2. The United States Tariff Commission, upon the request of the President, upon its own motion, or upon application of any interested party when in the judgment of the Tariff Commission there is good and sufficient reason therefor, shall make an investigation to determine whether, as a result of unforeseen developments and of the concession granted on any article by the United States in a trade agreement containing such a clause, such article is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or similar articles. Should the Tariff Commission find, as a result of its investigation, that such injury is being caused or threatened, the Tariff Commission shall recommend to the President, for his consideration in the light of the public interest, the withdrawal of the concession, in whole or in part, or the modification of the concession, to the extent and for such time as the Tariff Commission finds would be necessary to prevent such injury.

3. In the course of any investigation under the preceding paragraph, the Tariff Commission shall hold public hearings, giving reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. The procedure and rules and regulations for such investigations and hearings shall from time to time be prescribed by the Tariff Commission.

4. The Tariff Commission shall at all times keep informed concerning the operation and effect of provisions relating to duties or other import restrictions of the United States contained in trade agreements heretofore or hereafter entered into by the President under the authority of said act of June 12, 1934, as amended. The Tariff Commission, at least once a year, shall submit to the President and to the Congress a factual report on the operation of the trade-agreements program.

#### Part II

5. An Interdepartmental Committee on Trade Agreements (hereinafter referred to as the Interdepartmental Committee) shall act as the agency through which the President shall, in accordance with section 4 of said act of June 12, 1934, as amended, seek information and advice before concluding a trade agreement. In order that the interests of American industry, labor, and farmers, and American military, financial, and foreign policy, shall be appropriately represented, the Interdepartmental Committee shall consist of a Commissioner of the Tariff Commission and of persons designated from their respective agencies by the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor. The chairman of the Interdepartmental Committee shall be the representative from the Department of State. The Interdepartmental Committee may designate such subcommittees as it may deem necessary.

6. With respect to each dutiable import item which is considered by the Interdepartmental Committee for inclusion in a trade agreement, the Tariff Commission shall make an analysis of the facts relative to the production, trade, and consumption of the article involved, to the probable effect of granting a concession thereon, and to the competitive factors involved. Such analysis shall be submitted in digest form to the Interdepartmental Committee. The digests, excepting confidential material, shall be published by the Tariff Commission.

7. With respect to each export item which is considered by the Interdepartmental Committee for inclusion in a trade agreement, the Department of Commerce shall make an analysis of the facts relative to the production, trade, and consumption of the article involved, to the probable effect of obtaining a concession thereon, and to the competitive factors involved. Such analysis shall be submitted in digest form to the Interdepartmental Committee.

8. After analysis and consideration of the studies of the Tariff Commission and the Department of Commerce provided for in paragraphs 6 and 7 hereof, of the views of interested persons presented to the Committee for Reciprocity Information (established by Executive Order 6750, dated June 27, 1934, as amended by Executive Order 9647, dated October 25, 1945), and of any other information available to the Interdepartmental Committee, the Interdepartmental Committee shall make such recommendations to the President relative to the conclusion of trade agreements, and to the provisions to be included therein, as are considered appropriate to carry out the purposes set forth in said act of June 12, 1934, as amended. If any such recommendation

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to the President with respect to the inclusion of a concession in any trade agreement is not unanimous, the President shall be provided with a full report by the dissenting member or members of the Interdepartmental Committee giving the reasons for their dissent and specifying the point beyond which they consider any reduction or concession involved cannot be made without injury to the domestic economy.

Part III

9. There shall also be included in every trade agreement hereafter entered into under the authority of said act of June 12, 1934, as amended, a most-favored-nation provision securing for the exports of the United States the benefits of all tariff concessions and other tariff advantages hereafter accorded by the other party or parties to the agreement to any third country. This provision shall be subject to the minimum of necessary exceptions and shall be designed to obtain the greatest possible benefits for exports from the United States. The Interdepartmental Committee shall keep informed of discriminations by any country against the trade of the United States which cannot be removed by normal diplomatic representations and, if the public interest will be served thereby, shall recommend to the President the withholding from such country of the benefit of concessions granted under said act.

HARRY S. TRUMAN.

THE WHITE HOUSE,  
February 25, 1947.

APPENDIX E

STATEMENT BY THE PRESIDENT (FEBRUARY 25, 1947)  
REGARDING EXECUTIVE ORDER 9832

I wish to reaffirm the faith of this Administration in the Cordell Hull Reciprocal Trade Agreements Program, which became effective in 1934 and which has been extended by Congress all these years. This program is based on the principle of negotiations between this and other countries for the reduction of trade restrictions and elimination of discriminations on a mutually advantageous basis; for each concession granted by the United States, a corresponding concession is received. This program has become an integral part of our foreign policy, and has widespread support from industry, labor and farmers.



I am today issuing an Executive Order which formalizes and makes mandatory certain existing trade agreements procedures and which, in addition, makes some procedural changes. I wish to make clear that the provisions of the order do not deviate from the traditional Cordell Hull principles. They simply make assurance doubly sure that American interests will be properly safeguarded.

This order is the result of conversations between Under Secretaries of State Acheson and Clayton and Senators Vandenberg and Millikin, and has been carefully considered by the inter-departmental trade agreements organization. This organization is composed of representatives of the Departments of State, War, Navy, Treasury, Agriculture, and Commerce, and the Tariff Commission.

The United States is preparing to meet with eighteen other nations in Geneva on the tenth of April to negotiate on policies affecting world trade. We plan to complete the draft of a charter establishing common principles of world trade policy and setting up an international trade organization. We also shall negotiate the reduction of tariffs, the removal of other barriers to trade, and the elimination of discriminatory practices. I am very happy that Senators Vandenberg and Millikin agree that we should go forward with the Geneva negotiations.

All of us must now recognize that bi-partisan support of our foreign economic policy, as well as of our foreign policy in general, is essential. If we are to succeed in our efforts, through the United Nations, to organize the world for peace, we cannot refuse our cooperation where economic questions are involved. Here, as elsewhere in our foreign relations, we must abandon partisanship and unite in our support of a foreign policy that serves the interests of the nation as a whole.

#### APPENDIX F

##### EXECUTIVE ORDER 6750 (JUNE 27, 1934), PUBLIC NOTICE AND PRESENTATION OF VIEWS IN CONNECTION WITH FOREIGN TRADE AGREEMENTS

WHEREAS section 4 of the act of Congress approved June 12, 1934, entitled "An Act To amend the Tariff Act of 1930" provides:

"Sec. 4. Before any foreign trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this Act, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe; and before concluding such agreement the President shall seek information and advice with respect thereto from the United States Tariff Commission, the Departments of State, Agriculture, and Commerce and from such other sources as he may deem appropriate."

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NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority vested in me by the aforesaid section, prescribe the following procedure with respect to the giving of public notice of the intention to negotiate trade agreements and with respect to the granting of opportunity on the part of interested persons to present their views:

1. At least 30 days before any foreign-trade agreement is concluded under the provisions of the act notice of the intention to negotiate such agreement shall be given by the Secretary of State. Such notice shall be issued to the press and published in Press Releases of the Department of State, the weekly Treasury Decisions, and Commerce Reports.
2. Persons desiring to present their views with respect to any such proposed agreement shall present them to a committee to be known as the Committee for Reciprocity Information. Said Committee, hereinafter referred to as the Committee, shall consist of members designated from the personnel of their respective departments or offices by the Secretary of State, the Secretary of Agriculture, the Secretary of Commerce, the National Recovery Administrator, the Chairman of the Tariff Commission, the special adviser to the President on foreign trade, and the heads of such other Federal departments or offices as may be named from time to time by the Executive Committee on Commercial Policy. The Committee shall function under the direction and supervision of, and its chairman shall be designated from among the members of the Committee by, the Executive Committee on Commercial Policy.
3. The form and manner in which views may be presented, the place at which they shall be presented, and the time limitations for such presentation shall from time to time be prescribed by the Committee which may designate such subcommittees as it may deem necessary.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,  
June 27, 1934.

APPENDIX G

EXECUTIVE ORDER 8190 (JULY 5, 1939), PLACING THE COMMITTEE FOR  
RECIPROCITY INFORMATION UNDER THE JURISDICTION AND CONTROL  
OF THE DEPARTMENT OF STATE

[4 F.R. 2785]

By virtue of the authority vested in me by the Act of June 12, 1934, entitled "An Act to amend the Tariff Act of 1930" (48 Stat. 943), as amended, the Committee for Reciprocity Information, created by Executive Order No. 6750 of June 27, 1934, is hereby placed under the jurisdiction and control of the Department of State, its functions to be exercised under the direction and supervision of the Secretary of State, who shall designate from the membership of the Committee the Chairman thereof.

The Executive Committee on Commercial Policy, created by Executive Letter of November 11, 1933, and continued by Executive Orders No. 6656 of March 27, 1934, and No. 7260 of December 31, 1935, shall continue to exercise its function of selecting certain members of the said Committee for Reciprocity Information.

This order shall become effective on July 1, 1939.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,  
July 5, 1939.

APPENDIX H

EXECUTIVE ORDER 9647 (OCTOBER 25, 1945), REGULATIONS RELATING TO THE  
GIVING OF PUBLIC NOTICE AND THE PRESENTATION OF VIEWS IN CONNECTION  
WITH FOREIGN TRADE AGREEMENTS

[10 F.R. 13351]

Executive Order No. 6750 of June 27, 1934, is hereby amended to read as follows:

WHEREAS section 4 of the act approved June 12, 1934, 48 Stat. 945, as amended by Public Law 130, 79th Congress, approved July 5, 1945, provides as follows:

## TRADE AGREEMENTS PROGRAM TO APRIL 1948

"Sec. 4. Before any foreign trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this Act, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe; and before concluding such agreement the President shall seek information and advice with respect thereto from the United States Tariff Commission, the Departments of State, War, Navy, Agriculture, and Commerce and from such other sources as he may deem appropriate."

NOW, THEREFORE, by virtue of the authority vested in me by the foregoing statutory provisions, I hereby prescribe the following regulations governing the procedure with respect to the giving of public notice of the intention to negotiate foreign trade agreements and with respect to the granting of opportunity to interested persons to present their views:

1. At least thirty days before any trade agreement is concluded under the provisions of the said act of June 12, 1934, as amended, commonly known as the Trade Agreements Act, the Secretary of State shall cause notice of the intention to negotiate such agreement to be published in the Federal Register. Such notice shall also be issued to the press and published in the Department of State Bulletin, the Treasury Decisions, and the Foreign Commerce Weekly.

2. Persons desiring to present their views with respect to any such proposed agreement shall present them to the Committee for Reciprocity Information. The said Committee shall consist of members designated from the personnel of their respective agencies by the Chairman of the United States Tariff Commission, the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Secretary of Agriculture, the Secretary of Commerce, and the heads of such other agencies as the Secretary of State may designate on the recommendation of the Committee. The chairman of the Committee shall be designated from among the members of the Committee by the Secretary of State. The Committee may designate such subcommittees as it may deem necessary.

3. The Committee shall accord reasonable opportunity to interested persons to present their views on any proposed or existing trade agreement or any aspect thereof. The form and manner in which such views may be presented, the place at which they shall be presented, and the time limitations for such presentation shall from time to time be prescribed by the Committee.

The provisions of Executive Order No. 8190 of July 5, 1939, relating to the Committee for Reciprocity Information are hereby revoked.

HARRY S. TRUMAN.

THE WHITE HOUSE,  
October 25, 1945.



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