1950-001

UNITED STATES TARIFF COMMISSION

Operation of the
TRADE AGREEMENTS PROGRAM

Second Report

April 1948–March 1949

[GPO Cl. No.
TC 1.9: 163]

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PREPARED IN CONFORMITY WITH EXECUTIVE ORDER 10004 ISSUED OCTOBER 5, 1948

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1950

Report No. 163 Second Series

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Foreword

This is the second report of the Tariff Commission on the operation of the trade agreements program. By Executive Order 9832, issued in 1947, the Tariff Commission was instructed to submit to the President and to the Congress periodic reports on this subject. Executive Order 9832 was superseded by Executive Order 10004 of October 5, 1948, which prescribed revised procedures for carrying out the provisions of the Trade Agreements Act as amended, particularly by the Trade Agreements Extension Act of 1948. The latter order, however, continued unchanged the directive to the Tariff Commission to submit reports on the operation of the program.

In April 1948 the Commission issued a preliminary report on the operation of the trade agreements program from the time of its inception in 1934. The report was issued in April because the Congress had before it the question of extending the Trade Agreements Act. Only a preliminary report could be issued at that time because it had not been possible to complete a detailed analysis of the concessions obtained by the United States from foreign countries in the General Agreement on Tariffs and Trade, which was concluded at Geneva, Switzerland, on October 30, 1947. The preliminary report was later revised and extended to take more adequate account of the concessions obtained in the General Agreement. A summary of that report was printed as part 1 of Tariff Commission Report No. 160, Second Series; the rest of the report (pts. 2-5) was offset from typewritten copy. Copies of the complete report are obtainable from the United States Government Printing Office.

The present report deals with developments in the trade agreements program since those covered by the earlier report.

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Chapter 1

Introduction and Summary

Introduction

The first report of the Tariff Commission on the operation of the trade agreements program covered the period from the inception of the program in 1934 to the spring of 1948.[1] In large part it dealt with the concessions on individual articles granted or obtained by the United States in trade agreements, although it covered in considerable detail the so-called general provisions of the agreements, especially those of the General Agreement on Tariffs and Trade,[2] negotiated at Geneva, Switzerland, in 1947.

No trade agreements have been concluded by the United States since the General Agreement. Inasmuch as that agreement has already been described, there are no additional concessions to be analyzed in this report, which is the Tariff Commission's second report on the operation of the trade agreements program.

Nevertheless, during 1948 and the early months of 1949, many matters, some of considerable importance, arose in connection with existing or prospective trade agreements. Among these may be mentioned the extension, with important amendments, of the President's authority to negotiate under the United States Trade Agreements Act; certain revisions of the General Agreement, some relating to tariff rates on particular commodities and some to the general provisions; preparation for and initiation of negotiations with additional countries which desire to become parties to the General Agreement; continued extensive application of quantitative restrictions and exchange controls by foreign countries which are parties to agreements with the United States; various actions or proposed actions of foreign countries affecting tariff rates on articles on which they had made trade-agreement concessions to the United States; and certain actions or proposed actions by the United States which have a relation to its trade-agreement obligations.

[1] U. S. Tariff Commission, *Operation of the Trade Agreements Program, June 1934 to April 1948*, Rept. No. 160, 2d ser., 1949, 5 vols., as follows: 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. Hereafter this report will be cited as *Operation of the Trade Agreements Program* (first report).

[2] The General Agreement on Tariffs and Trade is variously referred to as the "Geneva agreement" or "GATT," but the short term used in this report is "General Agreement."

Amendment of Trade Agreements Legislation

The original Trade Agreements Act of 1934 authorized the President to negotiate for reductions in duties and amelioration of other trade restrictions by foreign countries and to make reciprocal concessions as to United States imports. The maximum permissible change in any United States duty was 50 percent. As first passed, the Trade Agreements Act was to remain in effect 3 years, but Congress extended it in 1937, 1940, 1943, and 1945. In these extension acts the only important change was that made in 1945, which permitted changes in United States duties up to 50 percent from the rates in effect on January 1, 1945, even though they had already been reduced to the maximum extent permissible under the previous acts. The amended act of 1945 was in effect when the Tariff Commission made its first report on the program.

In the absence of further legislation, the power to negotiate under the Trade Agreements Act of 1945 would have expired on June 12, 1948. Early in 1948, therefore, Congress gave consideration to the President's request for a further extension. The President recommended that the act be extended without change and for a period of 3 years. However, it was extended only until June 30, 1949, and important changes were made, especially as to the functions of the Tariff Commission in the trade agreements program.

The Trade Agreements Extension Act of 1948 requires that, before a trade agreement is concluded, the President shall submit to the Tariff Commission the list of commodities on which concessions will be considered by the United States in the negotiations. The Tariff Commission is required to report to the President its findings as to the lowest rate of duty on each dutiable item which can be fixed without causing or threatening serious injury to the domestic industry concerned, and to report its findings as to whether the binding of free entry can be made without threatening such serious injury. If the President makes any trade-agreement concession fixing rates lower than the findings specified by the Tariff Commission, he must report that action to the Congress and state the reasons therefor, whereupon the report of the Commission on the agreement must also be transmitted to the Congress.

Another important change resulting from the Trade Agreements Extension Act of 1948 related to participation of members of the Tariff Commission and its staff in trade-agreement decisions and negotiations. Although the Commission is still under obligation to supply information to the interdepartmental committees concerned with trade agreements, no member of the Commission or its staff may participate in the proceedings of the committees which advise the President regarding these agreements or which negotiate them. Previously, members of the Tariff Commission and its staff, designated by the Commission, had served on such committees, although in these activities they did not receive instructions from the Commission or represent the Commission as such.

Developments in 1948 Respecting the General Agreement

The General Agreement on Tariffs and Trade, negotiated at Geneva in 1947, is a multilateral agreement in which the United States and 22 other countries participated. At Geneva the tariff negotiations were conducted bilaterally on a product-by-product basis, each country ordinarily negotiating as to each particular import commodity with the country that generally had been its principal source of imports. The understandings reached in the bilateral negotiations were combined to form the schedules of concessions of the several countries set forth in the agreement.

The United States and eight other signatory countries brought the General Agreement provisionally into effect under a Protocol of Provisional Application on January 1, 1948.[3] At that time the concessions in the United States tariff which had been negotiated with these eight countries were made effective. Other signatory countries put the agreement into provisional effect from time to time thereafter; all of them had done so by March 1949. As each of these countries brought its concessions into effect, the President of the United States issued a proclamation making effective the appropriate additional portion of the United States schedule of concessions.

The General Agreement establishes procedures for its revision by the CONTRACTING PARTIES.[4] Two conferences of the CONTRACTING PARTIES were held in 1948 to effect such revision. The First Session was held between February 28 and March 24, 1948, at Havana, Cuba, at the end of the United Nations Conference on Trade and Employment, and the Second Session at Geneva, Switzerland, from August 16 to September 14, 1948. At these conferences minor revisions were made in some of the concessions specified in the agreement, mainly a clarification of wording.

In these sessions the CONTRACTING PARTIES also made some amendments in the general provisions of the General Agreement on Tariffs and Trade. Most of these were designed to bring certain provisions of the General Agreement into line with the revisions in the (Geneva) draft of the charter for an International Trade Organization, revisions which were made during the United Nations Conference on Trade and Employment held in Havana from November 21, 1947, to

[3] The difference between bringing the General Agreement into full effect and bringing it into effect under the Protocol of Provisional Application, is discussed in ch. 3 of this report; see also *Operation of the Trade Agreements Program* (first report), pt. 2, pp. 41–42, and U. S. Tariff Commission, *Report on the Havana Charter for an International Trade Organization*, 1949 [processed], p. 7. The last-mentioned report is hereafter cited as *Report on the Havana ITO Charter*.

[4] Whenever the General Agreement refers to the parties acting jointly, it designates them as "CONTRACTING PARTIES" (in capital letters). See article XXV of that agreement.

March 24, 1948. Most of the provisions of the General Agreement as previously formulated paralleled provisions of the Geneva draft of the charter. Moreover, the General Agreement provides that most of its general provisions will be superseded by corresponding provisions of the charter for an International Trade Organization, if the charter enters into effect. After the Geneva draft of the International Trade Organization Charter had been revised at the Havana Conference, it was considered appropriate that certain provisions of the General Agreement be superseded without waiting for the ratification of the charter by a sufficient number of countries to cause the International Trade Organization to be established.[5]

On the whole, the revisions of the general provisions of the General Agreement on Tariffs and Trade made in the conferences of the CONTRACTING PARTIES in 1948 do not materially change the features or underlying principles of the General Agreement as originally formulated.

Preparation for and Initiation of New Trade-Agreement Negotiations

During 1948, thirteen countries not parties to the General Agreement on Tariffs and Trade signified their desire to become parties. These countries are Colombia, Denmark, the Dominican Republic, El Salvador, Finland, Greece, Haiti, Italy, Liberia, Nicaragua, Peru, Sweden, and Uruguay. Accordingly, plans were made for these countries to meet with those now parties to the General Agreement in the Third Session of the Contracting Parties at Annecy, France, in April 1949. This meeting began on April 8 and is still (June 1949) in progress.[6]

On November 5, 1948, the President transmitted to the Tariff Commission a list of articles in the United States tariff on which concessions might be considered in the Annecy negotiations. As required by the Trade Agreements Extension Act of 1948, the Commission held hearings during December 7–14, 1948, to receive testimony from interested persons regarding possible injury or threat of injury to the American industries concerned from concessions on these items. On December 17 the President transmitted to the Commission a supplementary list of articles on which concessions would be considered; and on January 25, 26, and 27, 1949, the Commission held hearings regarding concessions on these articles. The Committee for Reciprocity Information also held hearings regarding concessions on both lists of commodities, as well as concessions

[5] For an explanation of the relation between the Geneva negotiations of 1947 and the Havana Conference on Trade and Employment, and between the charter for a proposed International Trade Organization and the General Agreement on Tariffs and Trade, see ch. 3 of this report. For more extensive discussions of these subjects, see *Operation of the Trade Agreements Program* (first report), pt. 2, pp. 17–20, and *Report on the Havana ITO Charter*, pp. 1–7.

[6] Two of the 13 countries—El Salvador and Peru—are not actually participating in the Annecy conference.

to be sought by the United States from the foreign countries. The Commission's findings on the first list of items transmitted by the President were reported to him on March 4, 1949, and those on the supplementary list were reported on April 14, 1949.

Actions or Proposed Actions of Foreign Countries Involving Questions Regarding Their Trade-Agreement Obligations

During 1948 several of the countries which are parties to trade agreements with the United States failed to take action as required by their agreements, or made or proposed to make changes in their tariffs which have raised questions as to conformity with their trade-agreement obligations to the United States. Some of these matters are of only minor importance to United States export interests and are not discussed herein. This report calls attention, however, to the outstanding instances in which the United States has made representations regarding tariff matters involving possible contravention of trade-agreement commitments or has entered into negotiations regarding proposed modifications of tariff concessions.

Six of the countries concerned are parties to the General Agreement. The General Agreement provides for consideration by the CONTRACTING PARTIES of actions which may involve changes in the commitments of subscribing countries. So far, however, actions taken or proposed by two of these countries—Canada and India—have not been scheduled for consideration by the CONTRACTING PARTIES. Pakistan, Ceylon, Brazil, and Cuba asked and received permission from the CONTRACTING PARTIES to renegotiate with the countries particularly concerned regarding rates of duty on certain articles on which they wish to depart from commitments made in the General Agreement. The results of these individual renegotiations are on the agenda of the Annecy conference, now in session, for final consideration by the CONTRACTING PARTIES.

Five countries whose recent actions (or failure to act) regarding tariff rates have led to representations by or renegotiations with the United States are parties to bilateral reciprocal trade agreements entered into before the General Agreement was negotiated. These countries are Mexico, Argentina, Colombia, Costa Rica, and Peru. The actions taken by Mexico were the most important.

The bilateral agreement between the United States and Mexico has an "escape clause" under which either country may modify or withdraw concessions if, as the result of them, imports have so increased as to cause or threaten serious injury to domestic industries. In December 1947 Mexico invoked this clause and increased the rates of duty on 12 items on which it had made concessions to the United States. After discussion the United States agreed to these changes without compensatory withdrawal of concessions made by this country to Mexico. More important than the actions taken by Mexico under the escape clause was that country's action in substituting compound rates of duty (i.e., rates having both a specific and an ad valorem component) for its specific rates on a long list of articles. These changes affected, among other articles, the duties on the remaining items listed in the Mexican schedule of concessions to the United States. The new rates on the concession items were at levels stated by the Mexican Government to be virtually equivalent, in terms of ad valorem incidence calculated on the basis of average unit values in 1947, to the rates in effect under the agreement with the United States, when such rates are applied to unit values prevailing in 1942. When the United States agreed in December 1947 to accept the new Mexican tariff duties on concession items, it was understood that Mexico would grant compensatory concessions to offset the changes made. Negotiations to effect such compensatory concessions began in May 1948 and have not yet been concluded.

The question that has arisen regarding Argentina's obligations as to tariff rates relates to concessions which Argentina was committed, by its trade agreement with the United States, to bring into effect when the country's customs receipts reached a specified level. Argentina has failed to make these concessions effective although the condition relating to customs receipts has been met. The actions of Colombia and Costa Rica which raised questions as to contravention of their trade-agreement commitments to the United States consisted of imposing taxes on foreign-exchange transactions, which raised the total charges on several classes of imports above the rates specified in the trade agreements. Peru took similar action although its surcharges were levied directly on imports rather than on the exchange transactions arising therefrom. Matters referred to in this paragraph are still the subject of negotiation between the United States and the other respective governments.

Nontariff Trade Controls on the Part of Foreign Trade-Agreement Countries

Nontariff trade controls consist of quantitative restrictions, or control of exchange, or both. During 1948 the most conspicuous feature of the trade policies of the greater number of the countries with which the United States has trade agreements was the continuance of these nontariff trade controls. During the war, nontariff trade controls were almost universal, and were used widely in the United States itself. Broadly speaking, foreign countries relaxed these controls somewhat during the first year or two after the war, but made them more restrictive during 1947. In 1948 and thus far in 1949 (June) there have been numerous detailed changes in these controls. Some have been more restrictive and others less restrictive than before. The net result for the world as a whole cannot as yet be evaluated.

These nontariff controls, with a few exceptions, are closely related to balance-of-payments difficulties and to the break-down of the multilateral system of conducting international trade—the system in which the currencies of all important trading countries were freely convertible into the currencies of other countries. The application of such controls, even in a discriminatory manner, by countries which are parties to the General Agreement and which are confronted with balance-of-payments difficulties is specifically permitted under the provisions of articles XII and XIV of that agreement. Somewhat similar provisions are contained in a few of the bilateral trade agreements which were negotiated by the United States before the General Agreement and which are still in effect. The other contracting countries under all these agreements have applied quantitative restrictions under these provisions. Most of the pre-Geneva agreements, however, do not provide for the application of quantitative restrictions by the contracting countries specifically for balance-of-payments reasons. The United States Government, however, has found it inadvisable to insist on strict compliance with commitments in respect to quantitative restrictions on the part of these countries when they are confronted with balance-of-payments difficulties, and by negotiation has agreed to relaxation of the commitments by several of the countries.

This report limits its discussion of nontariff trade controls primarily to actions of the United Kingdom and other British Commonwealth countries (parties to the General Agreement); certain other countries parties to that agreement, such as Brazil, Cuba, and France; and Argentina, Mexico, Sweden, Turkey, Switzerland, Finland, Iceland, Iran, and Peru, all of which are parties to pre-Geneva bilateral agreements still in effect.

Action by the United States Regarding Import Controls

The United States has made no new trade agreements since January 1, 1948. Its actions in putting into effect concessions made in the General Agreement have already been summarized.

During 1948 and the early months of 1949 (through May) the Tariff Commission received seven applications for investigations, under Executive Orders 9832 and 10004, with a view to invoking the escape clauses of the General Agreement on Tariffs and Trade or of the agreement with Mexico. Four of these applications were dismissed, the Commission deciding that there was not such evidence of injury or threat of injury to the domestic producers resulting from imports as would warrant a formal investigation. On one application, relating to spring clothespins, a formal investigation has been ordered. Two others are currently under consideration to determine whether formal investigations are warranted.

The control of imports by means of licenses has been continued by the United States with respect to a limited number of commodities, principally agricultural products. This system, which has been operated for the most part in cooperation with organizations of the United Nations, is designed to direct scarce materials to markets where they are in deficient supply. It is not in conflict with any trade agreement of the United States, and is clearly authorized by article XX of the General Agreement.

The United States has continued the maintenance of mixing regulations for rubber, designed to assure the existence of a domestic synthetic-rubber industry. The General Agreement contains a general prohibition of mixing regulations which require a specified proportion of the product to be supplied from domestic sources, but expressly exempts regulations that were already in force on April 10, 1947. The United States rubber-mixing regulations at present are not more restrictive of imports than those in force in April 1947. In fact, it does not appear that these regulations had any restrictive effect on imports during 1948. Large quantities of domestic general-purpose synthetic rubber were used by manufacturers for purposes where the use of synthetic rubber is not required by the regulations. Moreover, the price of domestic synthetic rubber was lower than that of imported natural rubber; this situation, however, changed in 1949.

The United States is maintaining import quotas on wheat (including flour), cotton (distinguishing short- and long-staple cotton), and sugar. The report examines these quotas in the light of the trade-agreement obligations of the United States with respect to (1) the conditions under which any quota on imports is permissible; (2) the division of the supply between total imports and domestic production; and (3) the allocation of the permitted imports among foreign supplying countries.

Chapter 2

Amendment of Trade Agreements Legislation and Procedures

Trade Agreements Extension Act of 1948

Legislative history

The Tariff Commission's first annual report to the President and the Congress on the operation of the trade agreements program discussed at some length the legislative history of the Reciprocal Trade Agreements Act from its original passage in 1934 through the fourth renewal in June 1945. Since this renewal was for a 3-year period and the act was due to expire in June 1948, the President early in 1948 asked Congress for the fifth time to extend the act for 3 years. The other four times (as at the time of the original enactment of the law in 1934) the Congress, like the Executive branch of the Government, was under control of the Democratic Party. This time, however, the Executive was Democratic and the Congress Republican in both Houses.

During March, April, and May of 1947 the House Ways and Means Committee and the Senate Finance Committee held extensive hearings on the operation of the trade agreements program and the proposed International Trade Organization. The general purpose of these hearings was to develop information as to the administration of the Trade Agreements Act, the relationship between that act and the proposed International Trade Organization, and the forthcoming negotiations at Geneva, Switzerland, which were to open in April 1947.

Hearings on the extension of the Trade Agreements Act in 1948 before the Ways and Means Committee of the House of Representatives were confined to executive sessions of a subcommittee of that Committee, May 3–8. Shortly thereafter the subcommittee reported to the full Committee, which on May 24, 1948, reported out by majority vote House bill 6556. This bill passed the House on May 26, 1948, without amendment. From June 1 to 5, 1948, the Committee on Finance of the Senate held open hearings on the bill and on June 8 reported the bill to the Senate with certain amendments.[1] The amended bill was passed by the Senate with further amendments on June 14, 1948. On June 15

[1] The most important change was the omission of the provision as passed by the House that, in case the President entered into an agreement involving concessions that went beyond the limits specified by the Tariff Commission, the agreement could be put into effect only if Congress did not indicate, by concurrent resolution, its disapproval within 60 days.

the House agreed to the Senate amendments without conference. The bill was signed by the President on June 26, 1948.

Provisions

The new law, designated as the Trade Agreements Extension Act of 1948, extends the President's authority to negotiate trade agreements from June 12, 1948, to June 30, 1949. Previous extensions, with one exception,[2] had been for 3-year periods.

In addition to the shorter period of renewal, the new extension act differs from the preceding extension acts principally in the functions assigned to the Tariff Commission.

Section 3 of the Trade Agreements Extension Act of 1948 provides that, before entering into negotiations concerning any proposed foreign trade agreement, the President shall transmit to the Tariff Commission a list of the articles imported into the United States which may be made the subject of negotiations. Upon receipt of this list, the Commission is required to make an investigation, including a public hearing, and to report to the President the maximum concession which can be made with respect to each listed commodity without causing or threatening serious injury to the domestic industry producing like or similar articles. Such a concession could take the form of (1) the binding of an existing duty, (2) the binding of an article on the free list, (3) a decrease in duty, or (4) where found necessary to avoid serious injury to the domestic industry, an increase in duty necessary to avoid such serious injury.

The Commission is required to report its findings under section 3 to the President not later than 120 days after the receipt of the list of articles to be included in the negotiations. The trade agreement may not be entered into until after the report is submitted, or until the expiration of the 120-day period.

Section 5 of the act provides that, if the President concludes a trade agreement establishing any rate of duty lower than that found by the Commission to be the lowest that may be established without causing or threatening serious injury to the domestic industry producing like or similar articles (or binding free entry when the Commission has found that this would cause or threaten such injury), he must transmit to the Congress within 30 days of the effective date of the trade agreement, a copy of the agreement, identifying the articles on which such action has been taken and stating the reasons for his action. Promptly thereafter the Tariff Commission must deposit with the House Committee on Ways and Means and the Senate Committee on Finance a copy of its report to the President with respect to such agreement.

The Trade Agreements Extension Act of 1948, furthermore, provides in section 4 that "neither the Commission nor any member, officer, or employee of the Commission shall participate in any manner (except to

[2] In 1943 the act was extended for 2 years only, from June 12 of that year to June 12, 1945.

report findings . . . and to furnish facts, statistics, and other information . . .) in the making of decisions with respect to the proposed terms of any foreign trade agreement or in the negotiation of any such agreement." The Commission as such had not previously participated in such decisions or negotiations. Commission members and employees designated by the Commission, however, had previously served as members of the Committee for Reciprocity Information, the Interdepartmental Trade Agreements Committee, and subcommittees thereof. Members of the Commission or of its staff, in participating in proceedings of these committees and subcommittees, did not act under instructions from the Commission or represent the Commisssion as such.

Congressional committee reports on House bill 6556

In reporting House bill 6556 to the House of Representatives, the majority of the Ways and Means Committee stated that the bill recommended by the committee was "the first step in more than 14 years toward a scientific adjustment of trade regulations consistent with the goal of maximum beneficial world trade"; that it provided "needed safeguards for the protection of domestic industry, agriculture, and labor" by improving "the administrative machinery for the determination of articles on which concessions may be made with safety"; that it "delegates to the Tariff Commission, a bipartisan group of tariff experts, the responsibility for making recommendations on an economic basis concerning proper rates of duty and delegates to our President and the State Department the diplomatic function of negotiating agreements with other nations." [3]

The Senate Finance Committee in reporting the bill to the Senate [4] stated that the procedures provided in the bill were designed to prevent serious injury to domestic producers from excessive competition from imports, and to lessen the doubts expressed in many quarters as to whether such domestic producers who required protection against such injurious competition from imports had received adequate consideration in trade-agreement negotiations. The committee expressed the view that these procedures, in focusing attention on the injury test, merely gave statutory expression to repeated Presidential assurances that, in administering the trade agreements program, domestic producers would be protected from serious injury, and that the procedures, in fact, were designed to help the President to fulfill such assurances. In this connection it was stated that the function assigned to the Tariff Commission, under section 3 of the bill, of finding the lowest duties which could be established in a trade agreement without causing or threatening serious injury to the domestic industry, was a function which the bipartisan Tariff Commission, with its adequate staff of technicians, its store of information, and its proved

[3] U. S. House of Representatives, Rept. No. 2009 [to accompany H. R. 6556], 80th Cong., 2d sess., 1948, pp. 1–2.

[4] U. S. Senate, Rept. No. 1558 [to accompany H. R. 6556], 80th Cong., 2d sess., 1948.

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ability for fact-finding work, was well equipped to perform, and that such reporting by the Tariff Commission would not retard negotiations.

The provision in the bill declaring members and employees of the Commission ineligible to participate in trade-agreement negotiations, or to act as members of any interdepartmental committee which recommends to the President policies to be followed in such negotiations, was advocated by the Senate committee primarily on the ground that the Commission is a fact-finding, research, and legislative as well as administrative agency, and should not participate in the making of Executive policy decisions.

In this connection, furthermore, it was urged by advocates of the bill that the "escape clause" procedure under trade agreements did not provide adequate protection against injury to domestic industry; that this procedure would ordinarily be invoked only after injury had occurred; and that action under the escape clause by one party to the General Agreement on Tariffs and Trade would invite retaliatory action by other parties to the agreement on articles of their own choosing, and so "would make entirely unpredictable the magnitude of adverse repercussions of an escape, and thus would discourage its use." [5] It was not proposed, however, that the escape clause should be eliminated in future trade agreements; rather was it argued that prior determination by the Tariff Commission of the minimum rates at which United States tariff duties might be fixed was a necessary additional measure to prevent serious injury to domestic producers.

Extension of the trade-agreement authority of the President for 1 year instead of 3 years was advocated on the ground that the United States should consider the question of membership in the proposed International Trade Organization, and also review the general effects of the European Recovery Program, in conjunction with the question of any longer renewal of the trade-agreement authority. If membership were accepted in the International Trade Organization, broad statutory changes would be needed to carry out the obligations assumed. Such changes would presumably be facilitated if trade agreements legislation could be considered at the same time.

On the other hand, opponents of the proposed legislation were strongly of the view that the trade agreements program had been successful in making agreements with a large number of countries and had resulted in the widespread reduction of trade barriers; that this had been of great benefit to the foreign trade of the United States; that no serious injury to domestic producers had resulted from the operation of this program; and that it was highly important that the Trade Agreements Act should be extended for 3 years without further amendment in order that the United States should continue its leadership in the improvement of international trade relations.

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[5] Ibid., p. 3.

The Democratic minority of the Ways and Means Committee criticized the proposed legislation as a typical protectionist device which would "kill the reciprocal-trade-agreements program as a major instrument of foreign policy by prescribing preliminary procedures involving interminable delays." They stated that the requirement that the Tariff Commission find the exact point below which the duty on any article could not be reduced without causing serious injury to the domestic producing industry assumed a certainty which is not present in tariff making; that in determining such point the Commission would have to make assumptions "regarding such imponderables as the rate of rehabilitation in war-torn countries, the course of price levels in the United States and foreign countries, and the movements of foreign exchange rates"; and that in making such determination the Commission under the bill was authorized to consider only the interests of domestic producers of the particular articles under consideration "without regard for . . . the broad interests of American industry, labor, farmers, and consumers." The provision forbidding members of the Tariff Commission or its staff from participating in recommendations to the President regarding, or in the negotiation of, trade agreements was deplored on the ground that it "deprives the President of the assistance of trusted and competent officers" and "places a high wall around the Tariff Commission." [6]

The minority of the Committee on Ways and Means stated further that all the fears of the opponents of the trade agreements program had been fears of future injury, whereas the program as it had been administered had not resulted in injury, and that the escape clause provided adequate means for relief in the case of serious injury or the threat of serious injury which might result from any trade-agreement concession.

In addition, it was argued that a failure to extend the Reciprocal Trade Agreements Act in substantially the same form in which it was extended in 1945 "would be a shattering blow to our leadership in the international economic field." [7] In this connection it was held to be essential that the trade-agreement authority be extended for a longer period than a year in order effectively to plan and negotiate trade agreements.

President's statement on signing the act

In signing the Trade Agreements Extension Act of 1948, the President expressed regret that the renewal was for 1 year instead of for the customary 3-year period. He also expressed the opinion that the new procedure prescribed for the negotiation of reciprocal trade agreements was "complicated, time-consuming and unnecessary" [8] but stated that he was signing the bill because it was essential that the authority to negotiate trade agreements should not lapse. He expressed the hope

[6] House Rept. No. 2009, pp. 5–9.

[7] Ibid., p. 5.

[8] Statement by the President released to the press June 26, 1948 (*Department of State Bulletin*, vol. 19, No. 471, July 11, 1948, pp. 54–55).

that the features of the act which he found objectionable would be corrected when the subject again came before the Congress in 1949.

Executive Order 10004

Preparation of trade agreements

On October 5, 1948, the President signed Executive Order 10004 prescribing revised procedures for carrying out the provisions of the Trade Agreements Act, as amended, and of the Trade Agreements Extension Act of 1948. The new order supersedes previous Executive orders dealing with the same subject.

The Executive order provides for continuation of the activities of the Trade Agreements Committee as the central operating group in trade agreements work, thus meeting the requirement of the Trade Agreements Act that the President, in carrying out his functions under the act, shall seek the advice of certain named Government agencies. Representation on the Committee is to include those agencies specified in earlier orders except the Tariff Commission. The armed services—formerly represented by the Army and the Navy—are now represented by a member from the office of the Secretary of Defense, and an additional new member is to represent the Administrator for Economic Cooperation. The new order continues the requirement first laid down in Executive Order 9832 (February 25, 1947) that members dissenting from the Committee's recommendation to the President on any proposed concession must submit to him a full report giving reasons for their dissent.

The Committee for Reciprocity Information is to continue its functions as the agency for receiving, digesting, and circulating to the trade agreements organization information presented by interested persons respecting any phase of proposed or existing trade agreements. Its membership is to be the same as that of the Trade Agreements Committee. The chairmanship of the Committee was transferred from the Tariff Commission member to the member from the Department of Commerce.

The Executive order provides, as before, that the Trade Agreements Committee shall submit to the President a list of commodities on which duty action might be taken in a prospective trade agreement. After approval by the President, the list is published and the Committee for Reciprocity Information announces the date of hearings at which the testimony of interested persons will be taken. In conformity with the Trade Agreements Extension Act of 1948, the list is also transmitted to the Tariff Commission for its findings under section 3 of that act.

The Commission is required under Executive Order 10004, as before, to supply the interdepartmental trade agreements organization with factual data concerning the production, consumption, and trade of all articles on which the United States proposes to consider concessions in trade agreements. The Department of Commerce is to perform a similar service for articles exported from the United States on which concessions are to be sought from foreign countries.

Escape-clause provisions

The functions of the Tariff Commission in connection with escape-clause procedures are also detailed in Executive Order 10004. These directives, following those of the previous Executive Order 9832 (February 25, 1947), require the Commission under certain conditions to make an investigation to determine whether a particular trade-agreement concession has caused or threatens to cause serious injury to a domestic industry. If its finding is in the affirmative, the Commission is to recommend to the President either the withdrawal of the concession or such modification of its terms as will obviate the danger of such injury.

On July 25, 1947, the Committee on Ways and Means adopted a Resolution containing, inter alia, the following paragraph:

> *Resolved* that the Tariff Commission is requested to establish as soon as practicable the substantive and procedural criteria, measurements, or other standards by which it will determine whether imports of any particular commodity are entering in such quantities as to "injure" or threaten "injury" to any domestic unit of agriculture, labor, industry or segment thereof, and to inform the Committee on Ways and Means as to how that Commission intends to comply with the provisions of Executive Order 9832 issued February 25, 1947 . . . [9]

In compliance with this Resolution, the Tariff Commission issued on February 24, 1948, a report entitled "Procedure and Criteria with Respect to the Administration of the 'Escape Clause' in Trade Agreements." The following excerpt from that report indicates the procedure which the Commission proposed to follow:

> The Presidential order provides that investigations by the Tariff Commission under the escape clause shall be made upon the request of the President, upon the motion of the Commission itself, or upon application of any interested party when in the judgment of the Commission there is good and sufficient reason therefor.
>
> The procedure to be followed in investigations under Executive Order 9832 is given in detail in the Amendment to Rules of Practice and Procedure, published by the Tariff Commission in June 1947. In brief, the procedure consists of open hearings after public notice, investigation by the staff of the Commission, preparation of the Commission's report, and, if serious injury or threat of injury is found, transmittal of the report with findings and recommendations to the President. The Tariff Commission is to issue public notice of each properly-filed application for investigation under Executive Order 9832 and, if an application is dismissed, it is to issue a statement of the reasons for the dismissal. Due notice must also be given of the institution of investigations at the request of the President or on the initiative of the Commission.
>
> The applicant for an investigation is requested to file with his application as much information as may be readily available to him regarding certain matters listed in the Rules, such as imports, production, sales, exports, labor engaged in direct production, comparability of the domestic and foreign article, the nature and extent of the injury to the domestic producer which is alleged to be caused or threatened, and various other matters. The purpose in asking for such information of this character as it may be practicable to furnish is

[9] The escape-clause provisions were continued in Executive Order 10004, issued October 5, 1948.

to assist the Commission in determining whether the circumstances warrant an investigation under Executive Order 9832. It is, however, preliminary to, and not a substitute for, the investigation itself, should the Tariff Commission decide that an investigation is warranted. This requirement has for its purpose to enable the Commission more readily to determine whether or not the application has *prima facie* merit. The Commission encourages informal conferences with prospective applicants to aid them in deciding whether to request an investigation, and if they decide to do so, to advise with them regarding the character of the information which in their special circumstances should accompany the application.

By whatever method an investigation is instituted, the Tariff Commission in carrying out its obligations regarding the escape clause will, as a matter of broad public policy, act as expeditiously as possible, consistent with the ascertainment of the facts. Prompt investigation and report is required to enable the President to forestall serious injury before it occurs, or, where that is not feasible, to afford appropriate relief before the damage has become prolonged.

The procedure summarized above is directed principally to investigations at the request of domestic producers. In those instances where investigations are undertaken by the Tariff Commission on its own initiative, similar information in the possession of the Commission will be taken into account in determining whether or not an investigation is warranted. The requirements of notice and public hearings will remain the same for all investigations, however instituted. Investigations on the initiative of the Tariff Commission would be in order in those cases where no application has been submitted but where the information available to the Tariff Commission indicates the probability of serious injury, or threat thereof, to domestic producers.

Following the description of procedures, the Commission's report discusses the conditions set forth in the escape clause under which a concession on any article may be modified or withdrawn. Four points appear in the clause. It must be found—

(1) That there has been a relative increase in the quantity of imports;

(2) That this increase has been "a result of unforeseen conditions";

(3) That it has been "a result of the Concession" on the article;

(4) That the increased imports are entering "under such conditions" as actually to cause or threaten serious injury to domestic producers.

Each of these points is subjected to detailed analysis in the report. Various methods of approach for particular sets of circumstances are also discussed. It is pointed out, however, that American industry and agriculture are too large and too varied to permit more than a general indication of the various types of situations which might warrant action under the clause. Consequently, the statement of criteria to be applied is not to be taken as all-inclusive.

Other provisions

Under Executive Order 10004 there must be obtained from each government with which a trade agreement is entered into, a most-favored-nation commitment, with a minimum of necessary exceptions, securing for United States exports the benefits of all tariff concessions and other tariff advantages granted by that government to any third country. The Trade Agreements Committee is required in particular to keep informed of discriminations by any country against the trade of the United States which cannot be removed by normal diplomatic representations. If it finds such, it is to consider whether the public interest would be served by recommending to the President that the benefit of trade-agreement concessions be withheld from the offending country.

The Tariff Commission also is instructed to keep informed at all times concerning the operation and effects of trade agreements and, at least once a year, to submit to the President and to the Congress a factual report on the operation of the program.

Chapter 3

Developments Respecting the General Agreement on Tariffs and Trade

History and Nature of the General Agreement [1]

The General Agreement on Tariffs and Trade, the latest and most important agreement entered into by the United States under the Trade Agreements Act, is a multilateral agreement in which the United States and 22 other countries participated. It was negotiated in connection with the proceedings of the Preparatory Committee of the United Nations Conference on Trade and Employment. The Preparatory Committee had been constituted by a resolution of the Economic and Social Council of the United Nations. This resolution contemplated that the full Conference on Trade and Employment would be convened after the Preparatory Committee had prepared for its consideration a draft Charter for an International Trade Organization. The General Agreement on Tariffs and Trade was negotiated at the Second Session of the Preparatory Committee, which was held at Geneva in 1947,[2] and the countries that participated in the agreement were the same as those which took part in the proceedings of the Preparatory Committee. At its Geneva session the Preparatory Committee completed its drafting of a Charter for an International Trade Organization.[3] That draft Charter was the principal working document of the United Nations Conference on Trade and Employment which convened at Havana, Cuba, on November 21, 1947, and completed its work on March 24, 1948.

In the formulation of the tariff concessions in the General Agreement on Tariffs and Trade, the negotiations were conducted bilaterally on a product-by-product basis, each country usually negotiating as to its treatment of each particular import commodity with its principal past or anticipated potential supplier of imports of that commodity. The understandings reached in these bilateral negotiations were combined to form the schedules of concessions of the several countries set forth in the agreement.

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[1] A more extended description of the General Agreement on Tariffs and Trade is presented in *Operation of the Trade Agreements Program* (first report), pt. 2, pp. 39–60.

[2] For the full text of the General Agreement as negotiated at Geneva in 1947, see *General Agreement on Tariffs and Trade*, United Nations Publications Sales No.: 1947. II. 10—Vols. I–IV, Lake Success, N. Y., 1947.

[3] For the full text of the draft Charter, see *Report of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment*, United Nations Publications Sales No.: 1947. II. 4, Geneva, Switzerland, August 1947.

The General Agreement will not enter into full force unless and until it shall have been accepted by countries that account for 85 percent of the total external trade of all the countries that participated in the negotiations. No country has subscribed unconditionally to the agreement, but it was brought provisionally into effect under a Protocol of Provisional Application by the United States and eight other countries on January 1, 1948.[4] At that time the concessions in the United States tariff which had been negotiated with those eight countries were made effective. By July 31, 1948, all countries (except Chile) which had participated in the 1947 negotiations at Geneva had brought the agreement into effect under the Protocol of Provisional Application. As each such country brought its concessions into effect, the President of the United States issued a proclamation making effective the appropriate additional portion of the United States schedule of concessions. Since Chile had not brought the agreement into effect by the end of 1948 (it did so on March 16, 1949), a small part of the United States schedule of concessions in the General Agreement remained ineffective during 1948.

The dates on which the General Agreement became provisionally effective for each of the 23 countries which participated in the Geneva conference, which are also the dates on which concessions granted by the United States in the negotiations with the respective countries were made effective, are as follows:

Australia	Jan. 1, 1948	France	Jan. 1, 1948
Belgium, Luxembourg, and Netherlands	Jan. 1, 1948	India	July 9, 1948
Brazil	July 31, 1948	Lebanon	July 30, 1948
Burma	July 30, 1948	New Zealand	July 31, 1948
Canada	Jan. 1, 1948	Norway	July 11, 1948
Ceylon	July 30, 1948	Pakistan	July 31, 1948
Chile	Mar. 16, 1949	South Africa	June 14, 1948
China	May 22, 1948	Southern Rhodesia	July 12, 1948
Cuba	Jan. 1, 1948	Syria	July 31, 1948
Czechoslovakia	Apr. 21, 1948	United Kingdom	Jan. 1, 1948
		United States	Jan. 1, 1948

The General Agreement on Tariffs and Trade provides that most of its general provisions will be superseded by corresponding provisions of the Charter for an International Trade Organization if such an organization be established. Many of the general provisions of the agreement as originally formulated at Geneva in 1947 were practically identical with corresponding provisions of the draft Charter for an International Trade Organization drawn up by the Preparatory Committee at the 1947

[4] For the United States to bring the General Agreement on Tariffs and Trade into full effect as regards certain of its general provisions will require legislative action. This is undoubtedly also true for most of the other countries that participated in the negotiation of the agreement. The difference between bringing the agreement into full effect and bringing it into effect under the Protocol of Provisional Application arises from the fact that under the protocol certain general provisions of the agreement are binding on signatories only to the "fullest extent not inconsistent with existing legislation."

Geneva conference. Some of these Charter provisions were amended at the Havana Conference on Trade and Employment,[5] and it was considered desirable to make parallel amendments in the corresponding provisions of the General Agreement. These amendments were made in sessions of the CONTRACTING PARTIES (all capitals when referring to the parties acting as a group[6]) during 1948. The First Session was held at Havana at the end of the United Nations Conference on Trade and Employment between February 28 and March 24, 1948, and the Second Session was held at Geneva from August 16 to September 14, 1948.[7] Most of the amendments made in the general provisions of the General Agreement were of minor importance. Some, however, were of greater significance and are discussed below.

Major Amendments to the General Agreement During 1948

Customs unions and free-trade areas (art. XXIV)

Although both the General Agreement and the ITO Charter provide for most-favored-nation treatment in all matters pertaining to the importation or exportation of commodities, various exceptions are permitted for particular sets of circumstances. Among these exceptions are the provisions relating to customs unions and free-trade areas. As written at Geneva, article XXIV of the agreement and article 42 of the charter exempted from the requirements of the most-favored-nation principle, trade among nations forming a customs union or entering into an interim agreement preparatory to the formation of such union. By amendment to both instruments at Havana, the same exemption was provided for free-trade areas and for interim agreements adopted in preparation for forming such free-trade areas. The amendment to the General Agreement[8] became effective June 7, 1948, for the contracting parties which had accepted it by that date. By the end of 1948, ten contracting parties had formally accepted this amendment.

A customs union and a free-trade area are each defined as a customs territory maintaining substantially free trade among the constituent members. A customs union, however, applies what is essentially a single tariff schedule to imports from countries outside the union, whereas the members of a free-trade area may apply their own individual tariffs to imports from outside countries. Under the new provision it would be possible for Canada and the United States, for example, to establish

[5] As amended at the Havana Conference this Charter is hereafter referred to as the ITO Charter. For the text as amended at Havana, see *United Nations Conference on Trade and Employment, Final Act and Related Documents*, Havana, Cuba, March 1948, pp. 3–66.

[6] See footnote 4, ch. 1.

[7] For the full text of the amendments made at the First and Second Sessions, see *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., and *General Agreement on Tariffs and Trade, Protocols Signed at Geneva, on 14 September 1948*, Lake Success, N. Y. [?], 1949.

[8] Contained in the Special Protocol Relating to Article XXIV of the General Agreement.

free trade between themselves without consolidating their tariffs for application to imports from outside countries. It was contemplated that the new arrangement might prove to be significant in working out plans for international economic cooperation in Europe, in that it would facilitate action among the Marshall plan countries toward eliminating trade barriers among themselves and thus tend to increase their over-all production.

Administration of quantitative restrictions on imports (arts. XI-XIV)

Article XI of the General Agreement prohibits in general such nontariff restrictions on international trade as prohibitions, quotas, licensing systems, and other quantitative measures of control. Recognizing, however, that problems of postwar economic adjustment would render it impracticable to attempt at once full attainment of this long-run objective, provision was made for temporary departure from the general rule when necessary to safeguard a country's balance of payments or to effect a necessary increase in its monetary reserves (art. XII). In the administration of such quantitative restrictions as would be permitted in accordance with this principle, it was provided that discrimination should not be practiced against any contracting party to the agreement (art. XIII). Again, however, it was felt that strict compliance would not be possible in the early postwar period. The original provision of the agreement therefore permitted a party to deviate from the rule of nondiscrimination for balance-of-payments reasons to the extent necessary to obtain imports in addition to those which it could afford if it adhered strictly to the rule of nondiscrimination. The import restrictions, however, had to be applied in such a manner (1) that the delivered prices of goods so imported should not be substantially higher than those which would have been paid for such goods if imported on a nondiscriminatory basis, (2) that a country does not divert to "soft-currency" countries appreciable amounts of exports which it could have sold to "hard-currency" countries, and (3) that "unnecessary damage to the commercial or economic interests of any other contracting party" should not be caused by such action (art. XIV).

These provisions of the agreement were also included in the Geneva draft of the Charter for an International Trade Organization (arts. 20–23). It was decided at the Havana Conference, however, that they were inadequate to meet the needs of some countries whose economies had been disrupted by the war. An amendment to the ITO Charter was therefore made, and a parallel amendment to the General Agreement, to take effect on January 1, 1949, was proposed.[9] This amendment is commonly known as the "Havana option," in contradistinction to the earlier provision, or "Geneva option," which was still available to certain countries. The Havana option permits the discriminatory application

[9] The amendment is contained in the Special Protocol Modifying Article XIV of the General Agreement.

of import restrictions in a manner having an equivalent effect to the application of exchange restrictions which the discriminating country is permitted to apply, during a transitional period, under article XIV of the Articles of Agreement of the International Monetary Fund.[10] If a country is not a member of the Fund it may make a special exchange agreement with the CONTRACTING PARTIES under a provision in article XV of the General Agreement on Tariffs and Trade. The Havana option also permits certain other discriminatory restrictions for balance-of-payments reasons if already in effect on March 1, 1948.

Countries eligible to elect the Geneva option were those which had put the General Agreement into effect before July 1, 1948, and which before January 1, 1949, should give notice that they chose to be governed by that provision. The United Kingdom, Canada, Ceylon, Lebanon, Syria, Southern Rhodesia, and South Africa have so chosen. Only the Havana option is now available to other countries.

No country is permitted to use either option under the General Agreement unless it is also eligible to use transitional-period exchange restrictions under the Fund Agreement; the purpose of this provision is to prevent the use of either agreement to defeat or nullify the objectives of the other. Furthermore, a contracting party is not permitted to continue the practice of either option after the expiration of its postwar transitional period as defined in article XIV of the Fund Agreement.[11]

The procedural provisions of the new article XIV of the General Agreement and article 23 of the ITO Charter, respecting the application of quantitative restrictions, closely parallel the provisions of the Fund Agreement respecting exchange restrictions. Beginning in March 1950, the CONTRACTING PARTIES must report annually on discriminatory restrictions still in effect; and in March 1952, and yearly thereafter, a country desiring to continue application of quantitative restrictions on a discriminatory basis must consult with the CONTRACTING PARTIES. Regardless of the particular method used by a country in the application of quantitative restrictions, it must endeavor insofar as possible to comply with the general object of the agreement to maximize the volume of multilateral trade in the transitional period. It must also endeavor to expedite the attainment of a balance-of-payments position which will enable it to dispense with quantitative restrictions and transitional exchange arrangements.

By the end of 1948 the protocol containing amended article XIV of the General Agreement had been signed by all the contracting parties except Southern Rhodesia. Accordingly, the amended article became effective on January 1, 1949, for all the countries which had accepted it.

[10] U. S. Department of State, *Treaties and Other International Acts*, Series 1501 (Pub. 2512), 1946, pp. 22–23.

[11] A minor exception is permitted under paragraph 2 of article XIV of the General Agreement as amended.

National treatment on internal taxation and regulation (art. III)

Article III of the General Agreement, which provides in general that imports from the territory of one contracting party into the markets of another such party shall not be discriminated against in favor of domestic products in the levying of taxes and other internal charges, or in regulations regarding sale, purchase, transportation, distribution, or use of products, was clarified by an amendment adopted at Geneva in 1948.[12] This amendment closely parallels an amendment made at Havana to article 18 of the ITO Charter and reads as follows:

> The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production.

The amendment also makes provision for conversion of existing taxes into tariff duties.

In its original form the General Agreement specifically applied the principles of article III to domestic products which are not necessarily like those imported but which are directly competitive with or substitutable for them. Although the amendment does not specifically mention such competitive or substitutable products, the language of paragraph 2 of article III is doubtless sufficiently broad to bring them within its purview.

By December 14, 1948, this amendment to article III had been accepted by the requisite two-thirds of the contracting parties and was put into effect for those countries. For other countries which are parties to the General Agreement the amendment will become effective from the date of their individual acceptances thereof.

Governmental assistance to economic development and reconstruction (art. XVIII)

An amendment to article 13(C) of the proposed ITO Charter, dealing with governmental assistance to the economic development or reconstruction of particular industries, was accepted by the Havana Conference. Later in 1948, at Geneva, the CONTRACTING PARTIES adopted a similar amendment as a restatement of article XVIII of the General Agreement, including it in the same protocol as the amendment to article III. The main feature of this amendment to the agreement is the provision for mandatory acceptance by the CONTRACTING PARTIES of a governmental measure restricting the quantity of imports, even though it be in conflict with the commercial-policy provisions of the agreement, if it meets certain stated qualifications.

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[12] Included in the Protocol Modifying Part II and Article XXVI of the General Agreement.

To be so accepted, the measure must be nondiscriminatory, and can apply only to products with respect to which the applicant has not assumed a specific obligation (concession) through negotiations with another party to the agreement; in other words, only nonscheduled commodities can be involved. The measure must also—

(a) be designed to protect an industry which had been established after January 1, 1939, and was protected during the period of its development by abnormal conditions arising out of the war; or

(b) be designed to promote the development of an industry for the processing of an indigenous primary commodity the external sales of which had been reduced by new or increased restrictions imposed abroad; or

(c) be necessary, in view of the possibilities and resources of the applicant country, to promote the development of an industry for the processing of an indigenous primary commodity, or for the processing of a byproduct of such industry, which would otherwise be wasted, if the measure promises in the long run to be beneficial to the applicant country and not harmful to international trade; or

(d) be unlikely to be more restrictive of international trade than any other practicable and reasonable measure permitted under the agreement, which could be imposed without undue difficulty. It must also be the one most suitable for the purpose, having regard to the economics of the industry or branch of agriculture concerned and to the applicant country's need for development or reconstruction.

The question as to whether a proposed measure meets any of these alternative qualifications is to be resolved by the CONTRACTING PARTIES by majority vote. If the decision is in the affirmative, approval of the measure is mandatory.

This amendment, like the amendment to article III, became effective on December 14, 1948, when it had been accepted by the requisite two-thirds of the then contracting parties. For the remaining parties to the agreement it will become effective from the dates of their individual acceptances.

Obligation to negotiate regarding tariff reductions (art. XXV)

Paragraph 1 of article 17 of the proposed Charter for an In ernational Trade Organization as drafted at Geneva imposed upon a member, when requested by ITO, the obligation to enter into and carry out with such other member or members as ITO might specify, negotiations directed to the reduction of tariffs and other charges on imports and exports and to the elimination of tariff preferences. This obligation was continued in the Havana ITO Charter with the amendment that the request for negotiation might be made directly, without resort to ITO, by any member country and directed to any other member. The General Agreement, as formulated at Geneva, contained no obligation to negotiate. At Havana, however, a new provision[13] was agreed upon, and by the end of 1948 was in effect for all the contracting parties except South Africa and Southern Rhodesia. This amendment (incorporated into article XXV of the General Agreement) provides that, whenever a party

[13] Contained in the Protocol Modifying Certain Provisions of the General Agreement.

to the agreement fails without justification to comply with the request of another party with whom it has not already negotiated to enter into initial negotiations for the reduction of tariffs and other charges on imports and exports and for the elimination of preferences, the second country may, with the consent of the CONTRACTING PARTIES, withhold from the first country its schedule of tariff concessions. If such concessions are in fact withheld, the first country may (under certain conditions) withdraw from the agreement upon 60 days' notice.

As implied in the foregoing paragraph, the obligation to negotiate, established by this amendment, does not apply as between any two contracting parties who have already negotiated with each other. It is, therefore, of little immediate importance to the United States since this country has already negotiated with all of the present parties to the General Agreement. Not all of the parties, however, have negotiated with all other parties. The amendment covers those situations and will also apply to the relations between the United States and additional countries which may become parties to the agreement.

Chapter 4

Initiation of Trade-Agreement Negotiations in 1948

The First Session of the CONTRACTING PARTIES (all capitals when referring to the parties acting as a group) to the General Agreement on Tariffs and Trade was held at Havana during the concluding weeks (between February 28 and March 24, 1948) of the United Nations Conference on Trade and Employment. At that time several countries not yet parties to the agreement indicated their interest in acceding to it at an early date.

To make plans for such accession and to deal with other matters which had arisen, mostly from the Havana Conference, the Second Session of the CONTRACTING PARTIES was held at Geneva August 16–September 14, 1948. At this meeting a timetable and procedures were adopted for bringing into the General Agreement the following countries:

Denmark	Italy
Dominican Republic	Nicaragua
El Salvador	Peru
Finland	Sweden
Greece	Uruguay
Haiti	

On April 11, 1949, these countries (except El Salvador and Peru, which failed to send delegations), together with Colombia and Liberia, which were added to the list at a later date, met at Annecy, France, with the 23 nations that were already signatories of the General Agreement for the negotiation of concessions in tariffs and other import restrictions, during the Third Session of the CONTRACTING PARTIES.

Preparation for Annecy Negotiations

So far as the United States is concerned, the negotiations at Annecy were initiated under the usual trade agreements procedures as amended by the Trade Agreements Extension Act of 1948. In accordance with such procedures, the Tariff Commission in the latter part of 1948 prepared statistical analyses of the United States import trade with each of the new countries preparing to negotiate at Annecy. On the basis of these data and of other information at its disposal, the interdepartmental Trade Agreements Committee on November 5, 1948, issued its notice of intention to enter into negotiations with the listed countries. At the same time it published a list of commodities to be considered for possible concessions by the United States. The list was also transmitted by the President to the Tariff Commission in accordance with the provisions of section 3 (a) of the Trade Agreements Extension Act of 1948. Any commodity not on the list is ineligible for consideration in the present (April 1949) negotiations at Annecy.

Simultaneously with the action just referred to, the Tariff Commission and the Committee for Reciprocity Information (CRI) gave notice of concurrent hearings to be held by them beginning December 7, 1948. Such hearings have been held by CRI since the inception of the trade agreements program in 1934. The Tariff Commission's hearings were held pursuant to the provisions of the Trade Agreements Extension Act of 1948, which requires the Commission to "hold hearings and give reasonable public notice thereof" as a part of the investigations described earlier in this report (in chapter 2). On March 4, 1949, the Commission reported to the President its findings on the list of commodities transmitted on November 5, 1948.

On December 17, 1948, the Trade Agreements Committee published notice of its intention to negotiate with Colombia and Liberia, thus raising to 13 the number of new countries to participate in the negotiations at Annecy. The brief lists of commodities involved were announced at the same time. Also made public on that date was a list of commodities supplementary to that of November 5 for negotiation with the original 11 countries which contemplated becoming parties to the General Agreement. CRI and the Tariff Commission held concurrent hearings January 25–27, 1949. On April 14, 1949, the Commission reported to the President its findings respecting these additional commodities.

United States Imports Involved

The complete list of United States import commodities being considered at the Annecy conference comprises 200 paragraphs and subparagraphs of the Tariff Act of 1930. Four-fifths of these relate to articles subject to duty and the remainder to articles on the free list.

Many commodities on the list being considered at Annecy have been the subject of concessions in earlier trade agreements and are now being considered for further concessions; others are being considered for the first time. The following two lists may be regarded as typical of the dutiable commodities under consideration:

LIST 1.—*Selected United States import commodities on which duty concessions have been granted and on which further concessions are being considered at Annecy*

Casein
Vulcanized or hard fiber (of cellulose)
Engraved ornamental glassware, valued at more than $8 each
Granite
Granular or sponge iron
Muck bars, bar iron, etc.
Steel ingots, billets, bars, etc., of certain kinds and values
Round iron or steel wire, and flat wire and steel in strips
Antifriction balls, rollers, and bearings

LIST 1.—*Selected United States import commodities on which duty concessions have been granted and on which further concessions are being considered at Annecy*—Continued

Files	Cut orchids
Articles of silver, n.s.p.f.	Cabbage seed
Birch plywood	Tomatoes, prepared or preserved
Spring clothespins	Rum
Sugar, full duty	Vermuth
Filler tobacco	Hemp, hemp tow, and hackled hemp
Cigarette leaf tobacco, except Latakia	Rayon filaments, including staple fiber
Scrap tobacco	Wrapping paper, n.s.p.f.
Butter	Hat braids of straw, etc., bleached, dyed, etc., not containing rayon
Extract of meat	Jewelry, valued at more than $5 per dozen
Canned beef	Hand-made laces and articles, of flax
Emmenthaler (Swiss) cheese, bluemold cheese, and Italian type cheeses	Hides and skins of cattle
Macaroni	Glove and garment leather of goat or kid skin
Jellies, jams, and fruit pastes and pulps, of various tropical fruits	Sponges, n.s.p.f.
	Cigarette paper

LIST 2.—*Selected United States import commodities on which concessions have not been granted but which are being considered at Annecy*

Cream of tartar	Currants
Styrax balsam	Lemons
Olive oil	Olives
Castile soap	Filberts, not shelled
Marble and breccia, in the block or sawed	Pignolia nuts
Mosaic cubes of marble, etc.	Bay leaves
Travertine stone	Hemp cordage
Slate, slates, and manufactures of slate	Wool-felt hat bodies, not blocked or trimmed, not pulled or stamped
Razors, valued at $1.50 or more per dozen	Silk fabrics, of certain values
Bronze, or Dutch metal, or aluminum, in leaf	Gummed papers, n.s.p.f.
Tubing of iron or steel, n.s.p.f.	Manufactures of paper, n.s.p.f.
Rare sugars (except salicin and lactose)	Artificial, or composition, or compressed cork, in slabs, etc.
Snuff	Ski wax
Reindeer meat	Piano accordions
Cherries, sulfured or in brine	Umbrellas, parasols, etc.
Orange peel	
Citrons and citron peel, candied, etc.	

Other Negotiations at Annecy

With a few exceptions, it was not contemplated that the original parties to the General Agreement would reopen negotiations with each other at Annecy. The exceptions consist of a few instances where some countries have been authorized by the CONTRACTING PARTIES to renegotiate certain concessions already granted by them. These are discussed in the following chapter.

Chapter 5

Changes or Proposed Changes in Tariffs of Foreign Countries Affecting the Operation of the Trade Agreements Program

The United States has trade agreements with 42 countries—22 countries parties to the General Agreement on Tariffs and Trade negotiated at Geneva in 1947, and 20 with which pre-Geneva agreements are still in force.[1] During 1948 about one-fourth of these countries took action to modify duties or other charges on imports covered by their schedules of concessions set forth in the agreements.[2]

Some countries with trade-agreement obligations to the United States have imposed new or increased tariffs or other charges on concession items imported from the United States in such a way as to contravene the spirit, if not the letter, of their agreements. Some of these actions may involve discrimination against a United States article in favor of domestic producers; for example, a higher internal revenue tax may have been assessed on imported motion-picture films than that assessed on domestically produced films. It is the practice of the United States Government to call these matters to the attention of the authorities in the other country and to seek correction of these matters. This report does not undertake to trace down minor cases of this kind. However, it deals with leading instances in which the United States has protested against alleged violations of agreements, or has entered into negotiations to modify the concessions of the foreign countries. This chapter describes actions taken or proposed by six countries which are parties to the General Agreement—India, Pakistan, Ceylon, Canada, Brazil, and Cuba—and by five countries—Mexico, Argentina, Colombia, Costa Rica, and Peru—which are not parties to the General Agreement, but which have pre-Geneva trade agreements with the United States.

COUNTRIES WHICH ARE PARTIES TO THE GENERAL AGREEMENT

Countries which are parties to the General Agreement are permitted under an "escape clause," and also under certain other provisions, to

[1] One of the General Agreement countries, Chile, was not a party to the agreement in 1948. Chile put its schedule of concessions set forth in the agreement into effect in March 1949 and became a party to the agreement at that time. Nicaragua is included in the group of pre-Geneva trade-agreement countries although the duty oncessions and certain other provisions of the trade agreement of 1936 between the United States and Nicaragua ceased to be in force on March 10, 1938.

[2] See ch. 6 of this report for action taken by various trade-agreement countries on nontariff trade controls.

take action to modify or withdraw tariff concessions made at Geneva in 1947. Such action is permitted under specified conditions, but can be taken only after notification of other interested countries, who are free to withdraw compensatory concessions. A few of the foreign countries which had participated in the negotiations at Geneva made special reservations with regard to their commitments when they signed the Protocol of Provisional Application placing the agreement and its schedules of concessions into effect.[3]

Modifications by General Agreement countries of tariff concessions in which the United States is directly interested have been relatively few. Most countries which are parties to the agreement have taken action to control imports by means other than modification of their tariffs, that is, by quantitative restrictions or exchange control, or both. This method has been resorted to because nearly all of these countries are in balance-of-payments difficulties, and they are permitted under the agreement to take temporary action of this sort to safeguard their external financial position and balance of payments. The conditions leading to the application of quantitative restrictions and exchange control, and important cases where such action has called for consultation with the United States, are discussed in chapter 6 of this report.

India, Pakistan, and Ceylon [4]

The partition of India, which gave independent status to India and Pakistan, occurred in August 1947 while the negotiations of the General Agreement on Tariffs and Trade were in progress at Geneva. However, the Indian Government negotiated the agreement on behalf of Pakistan as well as India. After the partition Pakistan sought to have some of the concessions which had been made on its behalf renegotiated. There was no trade agreement between the United States and India before the General Agreement. Ceylon's trade with the United States, on the other hand, was governed before the General Agreement by the 1939 trade agreement between the United States and the United Kingdom. Ceylon subscribed independently to the General Agreement, but, in signing the Protocol of Provisional Application in June 1948, it requested permission to make extensive changes in its concessions by renegotiation.

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[3] Chile became a party to the General Agreement under the Protocol of Provisional Application in March 1949. It did not previously have a reciprocal trade agreement with the United States. There had been, however, a provisional commercial agreement in force since July 30, 1945, in which Chile unilaterally made tariff concessions to the United States on a wide range of products, without compensation. This agreement was terminated by the Chilean Government on July 30, 1948.

[4] For nontariff trade controls applied by these countries, see ch. 6.

India

In November 1948 the Government of India announced tariff increases of approximately 25 percent over previous rates on a number of items, generally luxuries. These increases were announced as part of an anti-inflation policy designed to augment the Government's financial resources and to absorb surplus purchasing power. Included were three items—spirituous liquors, tobacco, and automobiles—on which India had granted tariff concessions in the General Agreement. The increase in duty on automobiles and tobacco is not in contravention of the agreement because the concessions on these items related only to margins of tariff preference for imports from Commonwealth countries, which were not affected by the subsequent increases in duty. The duty on liquors, however, had been bound against increase, and therefore the increase of November 1948 appears to have been contrary to the agreement. The exact amount of the new rates and other details are not yet known. Under Indian import-licensing regulations issued in February 1949, however, liquors do not appear on the list of items for which licenses for imports from dollar areas will be granted.

Pakistan

Before signing the Protocol of Provisional Application of the General Agreement in June 1948, Pakistan had increased (effective March 16, 1948) the import duties on a few items on which concessions had been made on its behalf by India. On the ground that these concessions were not in balance with the concessions received by it, Pakistan asked that they be renegotiated. Pakistan proposed to renegotiate six items: Camphor and certain radio equipment (with the United States); ribbons and certain musical instruments (with France); textile manufactures (with China); and glass beads and false pearls (with Czechoslovakia). The renegotiations were scheduled to take place at the Annecy conference in 1949.

Ceylon

Like India and Pakistan, Ceylon did not sign the Protocol of Provisional Application of the General Agreement until June 1948 (effective in July). In the agreement Ceylon had made tariff concessions on 83 items and subitems in its tariff. Of these, 21 were of interest to the United States, including those on fresh fruits, dried and canned fruits, tobacco, machinery, radios, refrigerators, typewriters, paints, drugs, and medicines.

In December 1947 Ceylon increased its duties on many items covered by the agreement, including several on which direct concessions had been made in negotiations with the United States, allegedly both for revenue purposes and for balance-of-payments reasons. On some items of primary interest to the United States, including certain fresh fruits and household refrigerators, the rates were substantially increased above the agreement rates. In general, the increases in duties on machinery items were considerably less than those on food items, whereas the increases on other items, including photographic instruments, pumping machinery, and patent medicines, were very moderate.

As a result of the increases of December 1947, Ceylon made the reservation, on signing the Protocol, that it could not give effect to many of the concessions made at Geneva. In August 1948 the CONTRACTING PARTIES [5] at their Second Session decided that such a reservation came within the meaning of article XXIII (Nullification or Impairment) of the General Agreement. On receiving from Ceylon an expression of willingness to renegotiate with regard to these concessions, the CONTRACTING PARTIES recommended that these renegotiations should take place not later than during their Third Session scheduled to begin at Annecy in April 1949. No public announcement of the results of these renegotiations has as yet been made (May 1949).

Canada [6]

The rigid quantitative restrictions on imports imposed for balance-of-payments reasons under the emergency legislation of November 1947, as authorized by article XII of the General Agreement, which permits quantitative import restrictions for the purpose of safeguarding a country's balance of payments, were the outstanding features in Canada's international trade during 1948. These restrictions are discussed in the following chapter. There were, however, some tariff actions of interest to the United States, and these are discussed here.

In 1948 the Canadian Parliament amended its customs act to bring it into harmony with the provisions of article VII of the General Agreement regarding valuation for customs purposes. The amendment eliminated features of the previous legislation which required the fixing of value for the assessment of ad valorem rates of duty on the basis of cost-of-production investigations; it also enlarged the appeal machinery of the Canadian Tariff Board in valuation disputes.

The only important change made in 1948 as to rates of duty was the granting of a temporary concession (from May 18, 1948, to June 30, 1949) to the United Kingdom, whereby British textiles were permitted duty-free entry into Canada. In keeping with the commitment at Geneva in 1947 not to increase the absolute margin of preference accorded British products, as set forth in its schedule of the General Agreement, Canada made corresponding reductions in the most-favored-nation rates, which apply to imports from the United States.

During 1948 Canada failed to carry out some provisions of the General Agreement which relate to the elimination of Empire preference in tariff matters. Canada continues to exempt British goods from antidumping

[5] All capitals used when referring to the countries acting as a group. See footnote 4, ch. 1.

[6] For nontariff trade controls, see ch. 6.

duties, while assessing such duties against United States commodities. Moreover, although it was agreed at Geneva in 1947 that the Canadian Parliament would impose the most-favored-nation rate of 15 percent ad valorem on imports of tin plate n. o. p.—tariff item 383 (b)—from the United Kingdom, thus eliminating the preference, Canada has continued to accord duty-free treatment to imports of such tin plate from the United Kingdom. It was also agreed at Geneva that the Canadian Parliament would be asked to abrogate in part the provision of its tariff act which grants a 10-percent discount from the duty on imports of Empire goods shipped directly from a British country (instead, for example, of being shipped through the United States) when the preferential rate exceeds 15 percent ad valorem. This discount operates to increase the margin of tariff preference above that provided for in the Canadian schedule of rates. Removal of the discount was to be requested only for items on which the tariff preference had been eliminated at Geneva. The Canadian Parliament has been reluctant to adjust these matters until after its international-payments position becomes more stable.

Brazil [7]

Brazil is one of two Latin American countries (Cuba being the other) which became parties to the General Agreement and accordingly suspended the trade agreements previously concluded with the United States.

Before the Geneva negotiations in 1947, the Brazilian Government projected legislation providing for a general increase of 40 percent in its specific rates of import duty to compensate for the depreciation in the value of Brazilian currency which occurred since 1934. The contracting parties to the General Agreement, the United States included, accepted the proposed higher rates of duty as the basis for the negotiation of Brazil's concessions. Even with this procedure, many rates in Brazil's schedule of concessions under the General Agreement which apply to products of major interest to the United States are less than 10 percent ad valorem on the basis of 1943 values.

The rates of duty on some items listed in Brazil's schedule of concessions under the General Agreement are higher than the rates which had been granted to the United States in the trade agreement of 1936 between this country and Brazil. Included with the items in this category are trucks weighing more than 2 metric tons, passenger automobiles, motorcycles, certain automobile parts and accessories, chewing gum, white cement, and certain paints.

Some articles on which Brazil had granted concessions in the trade agreement of 1936 were not included in Brazil's schedule of concessions in the General Agreement, and they, too, are now subject to higher rates

[7] For nontariff trade controls, see ch. 6.

than under the old agreement, which has ceased to be effective. Among the articles so treated are canned salmon, canned sardines, certain paints and varnishes, cotton oilcloth, hides and skins, rubber hose, cotton shirts, tires and tubes, linoleum, and patent leather.

However, when the Brazilian Congress finally ratified the General Agreement, effective for Brazil on July 31, 1948, it made a considerable number of reductions in the rates which had been specified in Brazil's schedule of concessions. The reductions applied to many articles of primary interest to the United States, including, among others, radio apparatus, trucks, busses and ambulances weighing up to 2 metric tons, certain machinery, and tools. The law which promulgated Brazil's concessions granted at Geneva also increased the rates on nonconcession items. Instead, however, of increases of 40 percent in all rates not subject to concession, as originally proposed by the Brazilian legislature, increases of only 10 percent and 20 percent became effective on a number of items. The effectiveness of Brazil's current quantitative trade controls may have diminished the demand for higher tariff rates.

On the other hand, when Brazil put the General Agreement into effect it withdrew its concessions on powdered milk, penicillin, and calendars and almanacs. For an interim period extending to December 15, 1948, the CONTRACTING PARTIES to the General Agreement decided that Brazil might apply certain maximum rates on these items. Although the rates agreed upon are higher than those specified in Brazil's schedule of concessions, the rates on the powdered milk and penicillin do not exceed those in effect before the effective date of the General Agreement. At the Second Session (August–September 1948) of the CONTRACTING PARTIES held at Geneva it was decided that Brazil's concessions on these three items would be the subject of renegotiation between Brazil and the United Kingdom and the United States, for the purpose of arriving at other concessions to compensate for the increases in the rates of duty on them. Pending conclusion of the negotiations, Brazil agreed not to increase existing rates of duty on a number of other items which are lower than the maximum permitted by the General Agreement. The negotiations, which began in the fall of 1948, were not concluded by December 15, and the CONTRACTING PARTIES granted an extension of time.

Cuba [8]

At the First Session of the CONTRACTING PARTIES to the General Agreement, held at Havana in March 1948, Cuba requested permission to renegotiate with the United States regarding certain items included in the Cuban schedule of tariff commitments in the agreement. These items comprised the following products: Rubber tire casings and inner tubes; nylon hosiery; nonornamental ribbons, braids, and galloons, for

[8] For nontariff trade controls, see ch. 6.

finishing clothing or for other manufacturing purposes, of cotton and of rayon, nylon, and other synthetic yarns; and fancy ribbons and trimmings of rayon, nylon, and other synthetic yarns.

Cuba requested that the items covering plain and fancy ribbons and similar articles be deleted from the list of concession items in order that the import quotas on these products might be maintained and applied in a nondiscriminating manner.[9] Regarding tires and tubes, Cuba made representations that, even with the duty increases agreed to in the 1947 Geneva negotiations, the manufacturers in Cuba were unable to compete with the products imported from the United States. Concerning nylon hosiery, the Cuban explanation was that the 14-percent duty reduction conceded in the Geneva negotiations was out of line in relation to the duty on nylon yarn.

Response to these Cuban requests was deferred to the Second Session of the CONTRACTING PARTIES, held at Geneva August–September 1948, when Cuba was granted the required permission to renegotiate with the United States, the country primarily interested in these items, regarding the tariff status of the products involved. In undertaking to renegotiate with Cuba concerning these items, it was understood that the United States was to receive full compensation for any modifications of the original Geneva commitments which might be agreed to. These adjustments were to be worked out in the course of bilateral negotiations and be subject to final action by the CONTRACTING PARTIES at their Third Session which began at Annecy in April 1949.

Initial discussions and exchanges of views between officials of the Cuban Government and the United States Embassy in Havana as to the renegotiations began in December 1948, and were continued in January 1949. At that time the Government of Cuba urged that the actual renegotiations be started immediately in view of its anxiety over the crisis which the Cuban industries were facing. Although detailed preparations for the bilateral renegotiations in Havana were continued through February and March 1949, they were not completed, and the renegotiation of these items was transferred to the agenda of the Annecy conference.

COUNTRIES WHICH ARE PARTIES TO PRE-GENEVA TRADE AGREEMENTS WITH THE UNITED STATES

Of the pre-Geneva trade-agreement countries previously mentioned as having taken action regarding tariffs or other charges on items covered by their concessions to the United States, only one country, Mexico, was

[9] These quotas had been established in July 1944 and had applied to imports from all countries except the United States. Products of the United States were exempt by virtue of trade-agreement commitments. In November 1948 Cuba abolished the quota controls on imports of ribbons and other narrow fabrics from countries signatory to the General Agreement, with retroactive effect to January 1, 1948. Thereupon Cuba requested a renegotiation of the rates on these items.

able to take such action, in part, under the escape clause in its agreement. There is no such clause in any other pre-Geneva agreement entered into by the United States except that with Paraguay. Mexico made other and more important tariff changes than those made under the escape clause. These changes have involved the United States and Mexico in prolonged consultation and renegotiation. As to Argentina, it was failure to fulfill certain obligations required under its agreement with the United States, rather than any new action, which resulted in representations by the United States. The other cases discussed in this section are of relatively minor importance.

Mexico [10]

At the time the trade agreement between the United States and Mexico was signed in 1942 (the agreement became effective early in 1943), Mexican imports from Europe and Asia had virtually ceased because of the war, and the United States had become almost the only source of imports of manufactured and industrial products. This fact, together with the substantial funds made available to Mexicans by United States purchases of war materials, caused imports from the United States to increase greatly. Moreover, they were even larger for a time after the war than they had been during the war; in 1946 they were nearly three times as much in value as in 1943. For many of the trade-agreement items the increase in imports from the United States was more than tenfold. Some of the increased trade was in articles regarded by Mexico as luxuries and nonessentials. In the immediate postwar years, Mexican exports to the United States, though much larger than before the war, lagged considerably behind imports from this country.

Largely because of the adverse trade balance with the United States that developed during the war and was accentuated in these postwar years, there was a marked and continuing decline in Mexico's foreign-exchange reserves. This situation led the Mexican Government to take a series of steps to reduce imports and to prevent further deterioration of the country's foreign-exchange position. Furthermore, there was a growing demand in Mexico, already evident in 1943, for greater tariff protection to domestic industries which had been established or expanded during the war, and for the encouragement of new enterprises.

In July 1947 the Mexican Government decreed increases in duties on many articles not subject to concession in the agreement with the United States. At the same time it placed an import embargo on a wide range of goods designated as nonessential, including some items enumerated in the trade agreement between this country and Mexico.[11]

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[10] For nontariff trade controls, see ch. 6.

[11] For a discussion of the import embargo, see ch. 6.

In November 1947 Mexico promulgated a new import tariff containing, for virtually all items except those enumerated in Mexico's schedule of concessions to the United States, compound rates which were higher, in terms of ad valorem incidence calculated on the basis of current unit values, than the former specific rates. At the same time, extended consultation began with this country regarding Mexican duties on concession items. Mexico sought to increase the rates of duty on all the dutiable concession items. For most concession items (all except 12 mentioned in the next paragraph) Mexico proposed to establish new rates of duty equivalent, in terms of ad valorem incidence calculated on the basis of average unit values in 1947, to the rates in effect under the agreement with the United States, when such rates are applied to unit values of 1942. The United States consented to such conversion of rates on these concession items, effective December 15, 1947, on the understanding that negotiations should be held for the purpose of compensating the United States for Mexico's action.

For the other concession items (12 in number), Mexico invoked article XI (the escape clause) of the agreement to increase the rates to levels substantially higher than those of the rates in the original schedule of Mexico's concessions to the United States.[12] Article XI provides that the Government of either country may withdraw or modify a concession granted on any article if it finds that the concession operates in such a manner as to cause or threaten serious injury to domestic producers of like or similar articles. The Government contemplating action pursuant to article XI is obliged to give written notice to the Government of the other country and to afford it opportunity for consultation as to the proposed action. If agreement is not reached between the two countries, the country proposing to take action is free to do so, and the other country is free, within 30 days after such action is taken, to terminate the agreement in whole or in part on 30 days' written notice. The items against which Mexico invoked the escape clause, effective December 15, 1947, included enameled and porcelain sanitary fixtures, certain paints and varnishes, articles containing rubber, and faïence ware (pottery). The United States agreed to Mexico's action on these items without seeking compensation therefor.

Renegotiation of the Mexican concessions to the United States in the trade agreement of 1943 on the principles which had been agreed upon in December 1947 was begun in May 1948, but no final settlement has been reached.

For the purpose of calculating the ad valorem part of the compound rates of duty the Mexican Government established, in October 1948, official prices for every item in its tariff schedule. In accordance with

[12] The six items on which Mexico had bound the duty-free treatment in the agreement of 1943 continued duty free.

the provisions of the Mexican import tariff of November 1947, ad valorem duties are to be levied on the basis of official prices when they exceed the values stated in the invoices. The official prices made effective in October 1948 are based on the unit values appearing in the trade statistics of 1947 for items not subject to concession, and on those in the trade statistics of the first quarter of 1948 for concession items. The official prices generally include charges for insurance and freight and are, therefore, considerably higher than the invoice values, which are essentially the wholesale prices in the exporting country. In determining the official prices, moreover, allowances were made for increases in prices of imported goods, expressed in Mexican currency, resulting from the devaluation of the peso in July 1948.

The new method of assessing duties operates to increase the duties on some concession items above those established in December 1947 under the provisional agreement between the United States and Mexico. The stated intention of the Mexican Government, however, was to replace the official prices established in October, as soon as practicable, by prices based on wholesale prices of imported articles in the principal country supplying Mexico. That intention is gradually being carried out.

Argentina [13]

The only trade-agreement matter involving tariffs which has called for representations by the United States to Argentina concerns Argentina's failure to put into effect the "second-column" (stage II) rates of duty specified in its schedule of concessions to the United States in the trade agreement of 1941 between this country and Argentina. According to the agreement, the second-column rates, which are lower than those which became effective with the agreement on November 15, 1941, were to be put in force whenever Argentina's total customs receipts should exceed 270 million pesos, national currency, in any calendar year. Although the customs revenue exceeded the stipulated amount in 1947, Argentina failed to apply the lower rates. Despite representations from the United States, the Argentine Government has taken no positive action on the issue.

Colombia

In June 1948 Colombia imposed graduated taxes on the purchase of foreign exchange to be used, among other purposes, in payment for imports. These taxes were in addition to a uniform stamp tax of 4 percent which was already applicable to exchange for all imported goods. The new taxes were graduated according to the essentiality of the imports. They amounted to 10 percent for the most essential imports and to 26 percent for the least essential.

[13] For nontariff trade controls, see ch. 6.

Since the trade agreement between the United States and Colombia prohibits other or higher duties or charges on imports than those specified in the agreement, the United States protested application of the new exchange taxes to items imported from this country covered by Colombia's schedule of concessions. Colombia, though not expressly admitting that the taxes are in contravention of the agreement, has pleaded urgent revenue needs in justification of its action. The United States temporarily and conditionally withdrew its protest pending negotiations looking toward accession by Colombia to the General Agreement at the Third Session of the CONTRACTING PARTIES at Annecy in 1949.

Costa Rica

On October 15, 1948, the Costa Rican Government imposed graduated excise taxes and a 20-percent exchange surcharge on imports of products appearing in two lists of items considered by it to be less essential than items not so listed. This action was taken with a view to improving the country's foreign-exchange position by curtailing imports. The reduction in Costa Rica's foreign-exchange balances had resulted primarily from disproportionately heavy imports, particularly from the United States.

Costa Rica did not apply the excise taxes to imports of products listed in its schedule of concessions to the United States, which action would have been in contravention of the agreement. However, it did request that the United States consider amending the agreement to permit the application of these taxes to concession items.

On the other hand, Costa Rica applied the 20-percent exchange surcharge to imports from the United States of all articles appearing in the two lists referred to above, which include most of the scheduled items. Since article I of the agreement provides that scheduled items shall be exempt from all charges other or higher than those specified in the agreement, the United States in December 1948 requested that Costa Rica remove the exchange surcharge from scheduled items. Costa Rica has not yet acted upon this request.

Peru [14]

For a period of about 2 months in the latter part of 1948, Peru levied exchange surcharges on practically all imports except basic foodstuffs, medicinal and surgical articles, and articles required by industries considered necessary. The surcharges were announced as being for the purpose of monetary stabilization. They applied to items listed in Peru's trade-agreement schedule of concessions to the United States as well as to other commodities. Following representations from the United States Government that the surcharges on scheduled items were

[14] For nontariff trade controls, see ch. 6.

European difficulties in exports

The problem of balance of payments arises for many countries, particularly in Europe, largely from their inability to export sufficient quantities of goods and services to pay for necessary imports, to say nothing of less essential imports. The productive capacity of countries that suffered heavily from war devastation was much lower in the immediate postwar years than before the war, and, although a large measure of recovery has taken place, some of them still produce less than in prewar years. On the other hand, the postwar needs of the war-devastated countries are abnormally great, both for consumption goods and for capital goods. Because of strong home demand, it is more difficult for such countries to increase exports than to increase domestic production, and some of them have continued to resort to stringent controls of domestic consumption in order to build up exports. In the meantime, the demand for imported goods is very strong.

The balance-of-payments difficulties of some of the European countries have been aggravated by a great reduction in their receipts of foreign exchange from "invisible" items, including return from investments abroad and from services of various kinds to foreigners.

Difficulties in various non-European countries

Although the Western Hemisphere countries suffered no war devastation, many of them have encountered balance-of-payments difficulties, especially in their relations with the United States. Virtually all these countries have trade agreements with the United States. These countries in general were very prosperous during the early postwar years, and their people desired many kinds of goods, especially goods of a sort which had to be imported because they were not produced domestically or were produced only in small quantities. There was a heavy backlog of demand because of reduced imports during the war. The European countries from which, before the war, the Western Hemisphere countries had imported large quantities of goods (Germany in particular had been a major source of imports into the Latin American countries) were unable to supply as much as in the prewar period; consequently the foreign purchases of these Western Hemisphere countries were largely from the United States. Although some of them had accumulated large balances of dollar exchange during the war, these reserves were in many of the countries substantially exhausted before their abnormal demand for foreign goods was satisfied. Their current exports to "hard-currency" countries became inadequate to meet their requirements for hard-currency exchange. Exports to "soft-currency" countries were to some extent limited by the quantitative restrictions and exchange controls of those countries; moreover, the soft currencies obtained could not be converted into dollars or other hard currency. Many of the Western Hemisphere countries, therefore, resorted to nontariff controls of imports.

Since the war, conditions in a number of non-European countries which are outside the Western Hemisphere and with which the United States has trade agreements have been broadly similar to those in the Western Hemisphere countries, though differing in detail. Under these conditions they also have maintained nontariff import controls. Among such countries may be mentioned Australia, New Zealand, the Union of South Africa, India, and Pakistan.

Postwar failure of multilateral settling of balances

Under normal conditions international trade is conducted on a multilateral basis. It is characteristic of this normal situation that the currencies of all important trading countries are freely convertible into each other, thus permitting not merely bilateral but triangular and multilateral trade. For example, a country which cannot export enough goods and services to the United States to pay for the imports which it desires from this country can use, under the multilateral system, the sterling which it accumulates from a "favorable" balance of trade with the United Kingdom to buy dollar exchange from third countries which have a surplus of dollars from their trade with the United States. Any balances on current account which cannot be settled by payments in currencies are taken care of by capital transactions among the countries concerned, which usually take the form of either the transfer of gold or other capital assets or the extension of credit. The balance-of-payments difficulties which would otherwise arise among the countries are thus avoided through multilateral balancing or capital transfers.

Under conditions which have prevailed since the end of hostilities in 1945, the multilateral settling of balances, for the most part, has not been feasible. Most countries have experienced disparities between their total income and total outgo on current account in transactions with the world as a whole, disparities for which they either have been unable to settle in capital assets from their own resources or could have settled only at the risk of serious injury to their own economies. Furthermore, many countries have often had much greater difficulties in settling balances with some countries than in settling them with others. These difficulties have been concentrated in transactions with a few foreign countries, notably the United States. This is the reason why, in the application of nontariff import controls by countries experiencing these difficulties, there has been a strong tendency toward discrimination among the countries furnishing imports.

There has consequently developed a group of so-called soft-currency countries whose currencies are not generally acceptable in payment for imports and a group of hard-currency countries whose currencies are so acceptable. Of course, gradations of "softness" and "hardness" appear. A country with a decidedly hard currency is one whose productive capacity is high and whose ability to export goods and services is materially greater than its needs for imports thereof. A country with a decidedly soft currency has the reverse characteristics. Most of the relatively few countries which now have hard currencies suffered little or no war devastation, although in some of them the conduct of industry was greatly altered during the war and has not yet been fully brought back to normal. On the other hand, many—though by no means all—of the typical soft-currency countries suffered severe war devastation.

Strictly hard-currency countries have naturally had no occasion to resort to nontariff trade controls on balance-of-payments grounds, whereas most soft-currency countries have resorted to such controls.

Payments Agreements and Related Measures

An aspect of the break-down of multilateral convertibility of currencies since the war has been the development of a network of so-called payments agreements (a type of agreement also utilized to a considerable extent by certain countries during the 1930's). These agreements are designed to balance, so far as possible, imports and exports between the pair of countries concerned. In general the purpose is to enable each partner country to obtain imports from the other without the payment of hard currency, and without accumulating holdings of the soft currency of the other country. Typical agreements of this kind involve the establishment of clearing accounts in the central banks of the two countries concerned, from which accounts exporters receive payments for goods sold and into which importers deposit payments for goods obtained. The agreement, itself, or a supplemental trading agreement, usually specifies lists of articles which are to be financed through the clearing accounts, and often specifies quotas for them. These payments agreements usually involve less restriction on trade between the parties than each party imposes on imports from countries with which it does not have such agreements.

International Efforts to Relieve Balance-of-Payments Difficulties

Recognition of the difficulties of foreign countries as to their balances of payments, especially with the United States, was an important factor leading this country to undertake certain major financial and economic measures after the war. The first was the loan of 3¾ billion dollars to the United Kingdom in December 1945. A still more important measure is the European Recovery Program (commonly called the Marshall plan) by which the United States is aiding western European countries both to meet their current balances of payments and to rehabilitate their industries with a view to enabling them ultimately to pay for needed imports by exports of goods and services.

A feature of the European Recovery Program has been the effort to restore and expand trade among the European countries participating in the program. This policy rests on the belief that extensive trade among the western European countries is in conformity with the normal pattern of their economies. From the point of view of the United States, expansion of trade among the western European countries is advantageous as a method of reducing the needs of those countries for aid from the United States. It is important to the expansion of trade among the western European countries that arrangements be made for the multilateral clearing of trade debts among them—in other words, arrangements whereby the individual countries can use an excess of exports over imports in trade with some of the countries to pay for an excess of imports over exports in trade with others.

Since the end of the war, various approaches have been made to the problem of establishing multilateral clearing among the western European countries, but all efforts in this direction have been impeded by the basic conditions which prevent the individual countries from restoring free convertibility of their currencies. The latest effort to deal with the problem resulted in the Agreement for Intra-European Payments and Compensations of October 1948. The details of the arrangements brought into effect by this agreement are extremely complicated. It may be said that the agreement provides for participating countries to extend credits in their own currencies (drawing accounts) to other participating countries. Drafts against these accounts resulting from unbalanced trade between any pair of countries are settled in part by multilateral clearing. Net balances not thus cleared are covered, up to specified amounts, by grants from the Economic Cooperation Administration (ECA) of the United States to the countries that have extended the credits. Thus, although part of ECA aid to individual beneficiary countries continues to be extended in direct grants of United States dollars to them, another part consists of funds with which they purchase goods from other participating countries; in the latter instance the dollar funds granted by ECA go not directly to the countries receiving the aid but to the countries that have exported more goods to other participating countries than they have imported from them. The system has advantages for promoting multilateral trade among the western European countries over the arrangement of directly allocating all ECA aid in dollars to beneficiary countries.

General Provisions Regarding Balance-of-Payments Difficulties in International Agreements

In the international negotiations during the last few years regarding trade policies, much consideration has been given to present and prospective balance-of-payments problems. This consideration is evident in the terms of the General Agreement on Tariffs and Trade, the Articles of Agreement of the International Monetary Fund, and the Havana Charter for an International Trade Organization (now subject to ratification by the various countries). Broadly speaking, these three documents ban quotas and exchange controls under normal conditions. However, they not only permit use of such controls by countries in balance-of-payments difficulties, but also permit discrimination among exporting countries in the application of these controls. The General Agreement, the Fund agreement, and the ITO Charter all seek to restrict unreasonable application of these exceptional practices and to limit their duration.

The provisions of the General Agreement regarding quotas and exchange controls were described in the first report of the Tariff Commission on the operation of the trade agreements program.[1] The similar provisions of the ITO Charter have been set forth in the recent report of the Tariff Commission concerning that charter.[2]

In the following description of the actions continued or initiated by foreign countries during 1948 with respect to nontariff import controls, two groups of countries are distinguished. The first group consists of countries which are signatories to the General Agreement. The second group consists of countries which are not parties to the General Agreement but with which the United States has trade agreements predating the General Agreement. The distinction is important because the general provisions of the General Agreement on Tariffs and Trade itself expressly permit countries in balance-of-payments difficulties to resort to quantitative restrictions on imports and exchange controls, together with discriminatory application of them, whereas most of the other trade agreements of the United States contain no such provisions, and especially not for the use of discrimination. Several of the countries with which the United States has trade agreements, however, have had balance-of-payments difficulties and, in the absence of express permission in the agreements, have asked the United States for special relaxations in this respect. With some countries, the United States has already agreed to such relaxation; with others negotiations are still in progress.

COUNTRIES WHICH ARE PARTIES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

All countries which have obligations to the United States under the General Agreement on Tariffs and Trade maintained quantitative import restrictions or exchange controls during all or part of 1948. Nearly all such action was taken for the stated purpose of safeguarding their external financial position and balance of payments. Cuba is the only member

[1] See pt. 2, pp. 47–50.

[2] See *Report on the Havana ITO Charter*, 1949; and ch. 3 of the present report.

country which imposed quantitative restrictions expressly attributed to other reasons.

Article XII of the General Agreement permits contracting countries to impose quantitative restrictions on imports to deal with balance-of-payments difficulties. The article provides, however, that such restrictions shall be progressively relaxed as conditions improve, and that they shall be eliminated as soon as possible. It also provides that the contracting parties shall undertake—

not to apply restrictions so as to prevent unreasonably the importation of any description of goods in minimum commercial quantities, the exclusion of which would impair regular channels of trade, or restrictions which would prevent the importation of commercial samples, or prevent compliance with patent, trademark, copyright, or similar procedures.

Article XIV of the General Agreement, under certain conditions and subject to certain limitations, permits parties to the agreement encountering balance-of-payments difficulties to apply quantitative restrictions on imports in a manner which departs from the principle of nondiscrimination. The practical effect of this provision is to permit countries in balance-of-payments difficulties to take measures to restrict imports from hard-currency countries without equally stringent restrictions on imports from soft-currency countries.

The use of quantitative restrictions and exchange controls became more widespread and more severe after the exchange crisis of August 1947, when the United Kingdom ceased preparations for making sterling generally convertible into dollars. Until there is material improvement in the conditions which caused parties to the General Agreement to invoke article XII, it will not be possible to determine whether all countries are observing the obligation to relax restrictions progressively as conditions improve. Some countries, however, began to relax their controls in 1948 and 1949.

The United Kingdom and the other British Commonwealth countries discussed in this section have applied quantitative restrictions and exchange controls under the authority of the General Agreement. However, because of their importance, special attention is called to the trade and commercial problems and policies of these countries during the first full year of the General Agreement.

As to the other General Agreement countries herein more briefly discussed (namely, Brazil, Cuba, and France), the purpose is to call attention to certain matters which have been of special interest to the United States or have been the subject of renegotiation. Aside from one or two instances of relatively minor importance or of short duration, the United States Government in 1948 made no complaint against any party to the General Agreement concerning the way in which nontariff controls were applied. No attempt is herein made to review the application of the General Agreement by China. China put the agreement into effect provisionally in May 1948. In view of the chaotic political and economic conditions prevailing in that country, its policies respecting revenue measures and trade controls change frequently, and it is difficult to determine whether, or to what extent, it has adhered to its obligations under the agreement.

The United Kingdom

The system of quantitative import restrictions, exchange control, and bilateral agreements established by the United Kingdom has been followed in greater or less degree in all countries which are short of dollar exchange. As the center of the "sterling area" countries [3] and of the large group of other countries which have close trade and financial relations with the United Kingdom, that country's influence on the commercial policy of other countries is very great.

During World War II the United Kingdom established rigid controls over imports and transactions in foreign exchange. The Government determined the quantity and type of goods to be imported and the countries from which imports were to be obtained. In the first 2 years of the war, exports were directed as much as possible to the United States and to other countries outside the sterling area because of the United Kingdom's need for dollar and other hard-currency exchange with which to make purchases of goods required, particularly, for the prosecution of the war. United States lend-lease operations greatly eased the external financial position of the United Kingdom and of other countries receiving aid in this form, but the United Kingdom retained exchange control and quantitative restrictions in order to obtain and pay for essential imports not covered by lend-lease.

The sterling area as it has existed since the beginning of World War II is a formal organization, the members of which have agreed to follow common and integrated policies with respect to quantitative trade restrictions and exchange control in their relations with countries outside the area. This common policy makes possible freedom of payments and multilateral trade within the area. An important feature of cooperation among the sterling area countries is the policy of pooling their foreign exchange resources. They turn over their current earnings of dollars to the "dollar pool" and draw on the pool according to their needs. By this device holders of sterling outside the sterling area are prevented from exchanging their sterling freely for dollars. The dollar pool is administered by the United Kingdom authorities.[4]

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[3] The scope of this area is described hereinafter.

[4] The so-called "sterling bloc" which existed before the war was of a very informal nature. It consisted of all British countries (except Canada and Newfoundland) and several non-British countries which undertook little more than to maintain their currencies in fixed relations to sterling. They did not maintain quantitative restrictions on imports from nonsterling countries for purposes connected with their common adherence to sterling as the medium of conducting international trade among themselves.

Except for a brief period in 1947 when the United Kingdom undertook to restore trade to a multilateral basis, its wartime controls over imports and foreign-exchange transactions have continued in substantially the same form since the war. Under the United Kingdom's import-licensing system, no goods may be imported into the country except under authority of a license granted by the Board of Trade. Most imports require individual licenses for each importation. This requirement is maintained mainly, though not entirely, for the purpose of enabling the authorities to control the use of scarce foreign exchange by discriminating between different sources of supply. For the great bulk of commodities imported from the United States, individual licenses must be obtained. Generally speaking, an importer who obtains an import license has no difficulty in obtaining a permit to purchase the required foreign exchange.

However, the Board of Trade issues what are known as "open general" licenses; importers may enter goods covered by these licenses without making application for a separate permit for each importation. From time to time there are changes in the items subject to the open general license system; lists are drawn up specifying not only the goods which may be imported under this system but also the countries to which the open general licenses apply. In 1948 a considerable number of articles could be imported into the United Kingdom from any country under open general license. This list included such items as live animals, bauxite, rough diamonds, undressed rabbitskins, kapok, nickel ores, and a number of crude drugs and spices. Most of the articles named, as well as most others on the list, are not usually imported in quantity from the United States, and many are not imported at all from this country.

Another and much shorter list of items may be imported under general license from any part of the British Commonwealth and from Ireland, and another list from other specified countries, mostly European.

In 1946 the United Kingdom adopted the so-called "token-import plan," permitting a small flow of imports of nonessential commodities from the United States and other hard-currency countries. The purpose of the plan was to enable foreign traders to maintain or resume their connections in the British markets, particularly those whose branded products had become widely known to the British public. This plan was inaugurated as an important step in the transition to more normal conditions. The United Kingdom's action as to token imports preceded inauguration of article XII of the General Agreement, which provides that contracting parties shall not apply restrictions so as to prevent unreasonably the importation of goods in minimum commercial quantities.

The United Kingdom, like many other countries, is now conducting a large part of its foreign trade through state-trading organizations. During the war, state trading developed to large proportions as an effective method of assuring that certain commodities, especially staple foodstuffs and basic raw materials, would be continuously forthcoming in the quantity and at the price regarded by government authorities to be in the best interest of the country as a whole. Since the war, it has been continued on a somewhat smaller scale. Under this system many long-term contracts are made for the purchase (or sale) in bulk of the more important commodities by state-trading enterprises. The contracts sometimes cover a period of several years.

The conduct of import or export trade through governmental or quasi-governmental agencies created or designated by contracting parties of the General Agreement is required, under article XVII of the agreement (entitled "Nondiscriminatory Treatment on the Part of State-Trading Enterprises"), to be carried on "solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale." The purpose of this provision is to prevent governmental agencies which are granted exclusive or special trading privileges from violating the general principles of nondiscriminatory treatment prescribed in the agreement.

Late in 1948 the United Kingdom Government was still the sole importer of about 30 groups of foodstuffs, including cereals and flour, sugar, oils and fats, meat, eggs, butter, cheese, tea, numerous fruits and nuts, and canned fish. It was the sole importer also of 36 groups of raw materials, including raw cotton, timber, wood pulp, raw hides and calfskins, certain acids and alcohols, lead, zinc, copper, aluminum, pig iron, and steel-mill products. In terms of value, the two groups together represented 57 percent of total United Kingdom imports in 1947.

In 1948 long-term purchase contracts were in effect (practically all for basic foods) with 25 or more countries: with Canada for wheat; Canada and Denmark for bacon; Canada, Australia, Ireland, and Denmark for eggs; Canada, Australia, and New Zealand for cheese; Australia, New Zealand, Guatemala, and Paraguay for meat; and with various countries for sugar, starch, dried fruit, and some other commodities. Some of the contracts (for example, with Australia and New Zealand for meat, butter, and cheese) [5] run for 7 years, or from 1948 to 1955. A number of other foods and most raw materials subject to centralized purchasing are purchased on short-term contracts (usually up to 12 months) or by spot transactions. Examples are canned fruit and citrus fruit, cotton, nonferrous metals, and timber.

By 1948 certain import commodities which during the war had been purchased solely by the United Kingdom Government had reverted to private trade. The most important of these are wool, manila, and sisal, but the list includes also cork, bristles, lemons, acetone, raw silk, and cotton linters. Most of the commodities which have been released for private purchases, however, are subject to import licensing.

[5] See later section on Australia and New Zealand.

The temporary relaxation of import and exchange controls by the United Kingdom in 1947, referred to above, came as a result of the Anglo-American Financial Agreement of December 1945. Under this agreement the United States extended to the United Kingdom a loan of 3¾ billion dollars; in return the United Kingdom, acting on behalf of the sterling area, undertook to complete arrangements for making sterling arising out of current transactions freely convertible into dollars in any area without discrimination.[6] Countries within the sterling area, as well as countries outside it which were accumulating sterling balances from exports and other current transactions, were to be permitted to exchange these balances freely for dollars. This marked a radical departure from the previous arrangement, which had been designed to prevent drain on United Kingdom dollar resources by the process of free convertibility.

The date set for establishing sterling convertibility was July 15, 1947. For several months before that date, the United Kingdom proceeded to make arrangements to enlarge the number of countries whose receipts of sterling from current transactions could be made freely convertible into dollars. Although the new policy was put into effect on this date, it soon became apparent that the United Kingdom would be unable to carry out its obligations under the loan agreement, because countries took advantage of the convertibility privilege to conserve their existing supplies of dollars while using their current earnings or accumulations of sterling to meet dollar claims. This circumstance resulted in a run on United Kingdom dollar holdings to such an extent as to reduce them almost to the vanishing point. Therefore, after consultation with the United States, the United Kingdom on August 20, 1947, suspended free convertibility of sterling into dollars with all countries except the United States and a few other countries (the so-called dollar countries) unwilling to accept payment in sterling.

The "convertibility crisis," as it was called, marked the end of the attempt to reestablish multilateral trade under the Anglo-American loan agreement. All countries which had stood to benefit from the arrangement immediately reverted to a condition of chronic dollar shortage. In order to correct the situation they intensified the system of quantitative import restrictions and exchange controls that had existed before the brief experiment in multilateral trade and free exchange. The United Kingdom enacted the Exchange Control Act of 1947 (effective October 1, 1947), which put into statutory form the Defense (Finance) Regulations that had been built up from the beginning of the war.

[6] The discussion of sterling transactions throughout this section refers to current transactions only. The large sterling balances accumulated by a number of countries (e.g., India and Egypt) as a result of war financing have been dealt with separately by the United Kingdom Government in a series of agreements with the countries holding sterling claims of this sort. These claims were so large that their conversion into dollars under the Anglo-American loan agreement would have been impossible; consequently arrangements were made for holding the bulk of them in suspense until some permanent solution could be found. For the terms of the agreement, see U. S. Department of State, *Treaties and Other International Acts*, Series 1545 (Pub. 2676), 1946.

The Exchange Control Act anticipated that quantitative restrictions on imports would be required for as long a time as it was necessary to safeguard the United Kingdom's balance-of-payments position with the United States and other hard-currency countries. Although the effect of such quantitative controls is to restrict imports from certain countries, notably the United States, while not restricting them (or restricting them less) from others, this discriminatory practice is not in violation of any of the United Kingdom's international obligations. The Anglo-American Financial Agreement of 1945, though designed to put an end to restrictions on United Kingdom imports from the United States, had made provision for continuation of such restrictions pending the realization of the aims of the agreement. Likewise the General Agreement on Tariffs and Trade permits a member country to discriminate in this way in the interest of safeguarding its balance of payments, but it is quite specific that the restrictions shall be abandoned when conditions permit.

The elaborate system of exchange controls used by the United Kingdom since August 1947 is designed to conserve dollar and other hard-currency exchange, while facilitating trade on the basis of sterling by making special arrangements with countries which restrict the use of sterling. Within the sterling area, ownership of sterling can change hands with scarcely any obstructions, permitting free convertibility between the various currencies of the area. There are, however, some local restrictions on the use of sterling by a few members of the area, notably the Union of South Africa, India, and Australia. As of January 1949 the sterling area consisted of all British and Commonwealth countries except Canada and Newfoundland (which never have been in the sterling area), and three non-British countries—Burma, Iceland, and Iraq.[7]

The United Kingdom could not refuse to pay in dollars for imports from "dollar" countries because of its need of certain essential imports from these sources and because of the unwillingness of the countries to accept sterling in settlement of balances. In order, however, to prevent private traders from drawing too heavily on dollar resources needed for the purchase of goods designated as essential, the United Kingdom and other sterling-area countries imposed rigid quantitative restrictions on imports from the dollar countries as defined in the United Kingdom exchange-control regulations. Present United Kingdom exchange-control regulations divide the countries of the world into four main groups as follows: (1) The Sterling Area (now officially called "Scheduled Territories"); (2) the American Account (dollar) countries; (3) the Transferable Account countries; and (4) the so-called "bilateral" countries.

The dollar countries include the United States, the Republic of the Philippines, and 14 Latin American countries, namely, Bolivia, Colombia,

[7] Egypt and the Anglo-Egyptian Sudan dropped out of the sterling area in July 1947, Palestine and Trans-Jordan in February 1948, and the Faeroe Islands in November 1948.

Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, and Venezuela. With a few exceptions, countries outside the dollar area are in more or less the same position as the United Kingdom in being short of dollar exchange, and are therefore competitors of the United Kingdom in obtaining dollars.

The Transferable Account group consists of a small number of countries, sometimes referred to as part of the "wider sterling group," with which the United Kingdom can safely conduct trade on a multilateral basis and in sterling, in much the same manner as trade is carried on between countries of the sterling area. These countries maintain part of their external exchange reserves in sterling and transact much of their trade in sterling. Arrangements with these countries permit them to transfer sterling freely in their trade with each other (provided payment is made from accounts designated as "Transferable Accounts") and with members of the sterling area. Italy and Sweden, for example, are both in the Transferable Account group; therefore, Italy is permitted freely to pay for goods purchased in Sweden by making transfers from an Italian sterling account in London to a Swedish account there, and vice versa. However, accumulations of sterling resulting from current transactions cannot be transferred, except by special permission, to countries in the dollar area or to countries with which the United Kingdom has special bilateral arrangements excluding such transfers. Unlike members of the sterling area, these Transferable Account countries do not pool their dollar earnings; each country is responsible for its own dollar requirements.

Generally speaking, the countries in the Transferable Account group are those with which the sterling area has a current favorable balance of payments or whose trade with third countries is not likely to result in sterling balances large enough to require settlement in gold. As of early 1949, the countries still remaining in the Transferable Account group were the Anglo-Egyptian Sudan, Chile, Czechoslovakia, Egypt, Ethiopia, Finland, Iran, Italy, the Netherlands (Dutch monetary area), Norway, Poland, Siam, the Soviet Union, Spain (Spanish monetary area), and Sweden.

The bilateral group consists of countries with which the United Kingdom has bilateral agreements. Following the convertibility crisis of August 1947, a number of countries which up to that time had been in the Transferable Account group were transferred to the bilateral group of countries. Various considerations account for this shift. Belgium, Canada, and Portugal, for example, were shifted to the bilateral group in order to enable the United Kingdom to conserve its gold reserves. The United Kingdom's payments agreements with these and several other countries permitted them to convert their current accumulations of sterling, in excess of certain fixed ceilings, into gold. Since these countries appeared likely to be in a position to exercise this privilege, their retention in the Transferable Account group would have amounted to extending to them sterling-dollar convertibility.

As to countries with which the United Kingdom had no gold-conversion agreement, countries such as Argentina, Brazil, and Uruguay, other motives have been suggested for shifting them to the bilateral group. It is possible that the United Kingdom took this action in order to prevent sterling held by European countries from being used, in competition with the United Kingdom, for the purchase of foodstuffs and raw materials in these Latin American countries. Another motive may have been the desire to induce these countries to use the proceeds of their sales to sterling-area countries to purchase goods produced in that area. Still other countries were evidently shifted because they had such weak and unstable currencies that trade with them was difficult to maintain except on substantially a barter basis.

Numerous shifts of countries from the Transferable Account group have made the bilateral group by far the largest group of countries in the United Kingdom system of exchange-control regulations. With these countries the United Kingdom has strictly bilateral payment and trading arrangements. This group now (early in 1949) comprises Argentina, Belgium, Brazil, Canada and Newfoundland, Denmark, France, Germany (all zones), Japan, Paraguay, Peru, Portugal, Switzerland, Turkey, Uruguay, and about a dozen other countries. Transfers of sterling between these countries are not permitted unless specially authorized (so-called "administrative transferability") by the United Kingdom exchange-control authorities.

Arrangements of the United Kingdom on a bilateral basis permit the settlement of commercial transactions without affecting scarce foreign-exchange holdings in gold and stable currencies which are urgently needed for defraying the cost of indispensable imports from hard-currency countries. Although the arrangements vary in detail from country to country, in general they provide for a fixed rate of exchange. They also set limits to the amount of each other's currency which the central bank of each partner to the agreement shall hold. Within the limitations thus set up, it has generally been necessary to specify the nature and content of the trade. This necessity results from the fact that the United Kingdom itself and every country with which it has these bilateral arrangements want to assure the importation of commodities considered indispensable, but are unwilling to issue licenses for imports regarded as nonessential. Therefore, in order to maximize the trade in both directions, trade or commercial agreements, supplementing the monetary agreements, are drawn up with detailed lists of commodities and import quotas by commodity groups.

In addition to maximizing the trade between pairs of countries, the bilateral agreements are intended as a means of achieving an approximate equilibrium of current payments between sterling-area countries and the nonsterling countries with which such arrangements are made. The arrangements commonly call for the liquidation of balances in gold, this being the only practicable means of convertibility since intertransfers of sterling and the conversion of sterling into dollars are ruled out. The agreements are for relatively short periods, usually a year.

The British Dominions and Other Commonwealth Countries

During World War II lend-lease operations, by dispensing with the necessity of paying out dollars for a large part of the imports from the United States, greatly eased the foreign-exchange situation in the countries participating in this form of mutual aid. This was true of most of the Commonwealth countries as well as of the United Kingdom itself. In addition, large expenditures by the American armed forces in these countries added to their accumulation of dollars. Although lend-lease operations ceased after the war, and expenditures by American armed forces abroad fell off rapidly, Commonwealth countries which had accumulated dollars, some of them in large amounts, were anxious to spend them in meeting their demand for United States goods which had been built up by wartime shortages of imports. The United States loan to the United Kingdom under the Anglo-American Financial Agreement of 1945 gave added opportunity for the Commonwealth countries to spend dollars freely, since the agreement (at the outset) provided for free convertibility of current sterling earnings into dollars as soon as arrangements could be made.

In view of these favorable conditions, the British dominions and other Commonwealth countries proceeded to relax their restrictions on imports and foreign-exchange dealings, and for a time they made heavy purchases in the United States and other hard-currency countries. This upsurge of buying came to an end with the convertibility crisis of August 1947. These countries were immediately faced with the necessity of increasing exports to the dollar area and at the same time reducing those imports which had to be paid for in dollars. It was difficult to make the adjustment sufficiently by an increase of exports. None of the countries felt themselves to be in a position to use currency devaluation as a means of discouraging imports and stimulating exports, especially in view of their commitments under the Articles of Agreement of the International Monetary Fund. Canada had restored its dollar to parity with the United States dollar in July 1946, and the other dominions were desirous of maintaining or restoring parity with the British pound.

All other methods of solving the dollar problem having failed or been rejected, the British dominions and other Commonwealth countries undertook to restrict imports from dollar sources and to carry on a maximum of import trade on a sterling basis or, in the case of Canada, by special arrangements outside the United States dollar area. Dollar resources, therefore, were conserved for the purchase of goods which each country regarded as essential and which were not obtainable in sufficient quantities except from hard-currency countries. As parties to the General Agreement, the Commonwealth countries were free to take measures they considered necessary to safeguard their balance of payments.[8] Such measures necessarily involved discrimination against imports from the United States.

Canada[9]

The wartime controls imposed by Canada on imports and dealings in foreign exchange were relaxed considerably in late 1945 and during 1946. The large volume of purchasing power and the backlog of demand resulting from wartime restrictions on imports were soon reflected in an unusually large volume of imports of consumers' goods from the United States. Restoration of the Canadian dollar to parity with the United States dollar in July 1946 and the removal of price controls on a large number of imported articles contributed to the increase of Canadian imports from the United States. During the period July 1946 to June 1947, Canadian imports from the United States increased 47 percent above imports during the preceding 12 months. Rising prices of commodities imported from the United States accelerated the drain on Canada's resources of United States dollar exchange. Between December 1945 and December 1947 Canadian holdings of United States dollar exchange declined from 1,154 million to 214 million.

During the short period of sterling convertibility in 1947, Canadian holders of sterling in accounts set up by the Bank of England were able to exchange their sterling freely for United States dollars. After these transfer facilities were withdrawn by the United Kingdom exchange-control authorities in August 1947, sterling on Canadian account could no longer be exchanged freely for United States dollars; it could be used only for making payments in Canada or in the sterling area. Consequently, Canada was transferred by the United Kingdom authorities from the Transferable Account group of countries to the group in which the principles of bilateral trading apply.[10] Since then Canada has been allowed to exchange sterling for dollars only in agreement with the United Kingdom exchange-control authorities.

Under normal conditions of multilateral trade, Canada is able to correct its adverse balance of payments with the United States by its ability to convert to United States dollars its export surpluses to other

[8] Most of them were also members of the International Monetary Fund and thus were permitted discrimination in exchange controls when necessary for balance-of-payments reasons.

[9] For action with respect to tariffs, see ch. 5.

[10] See preceding section on the United Kingdom.

countries. However, the break-down of the multilateral system of convertibility in the postwar period has prevented this adjustment from taking place. Therefore, Canada has depended almost entirely on restricting its imports from the United States in order to solve its dollar problem.

Under the Emergency Exchange Conservation Act (effective November 18, 1947), the Canadian Government applied three kinds of import restrictions, namely, embargoes, quotas, and licensing. The United States was consulted in advance of the application of these restrictions and agreed not to exercise any rights under the 1939 trade agreement with Canada (which remained in effect until January 1, 1948) to protest the establishment of quantitative restrictions on imports from this country.

The embargoes and quotas became effective on November 18, 1947. The embargoes were applied to a long list of commodities the importation of which was prohibited from all countries. However, some trade in embargoed items was permitted. The items selected for quota control represented goods which Canada regarded essential to import from nonsterling countries but in restricted amounts. Generally speaking, they consisted of goods coming from a number of different countries. The commodities made subject to quotas were allocated among five general categories: (1) Fruits and vegetables; (2) textiles; (3) leather and rubber goods; (4) prepared foods; and (5) miscellaneous. The quotas were based on the average dollar value of imports of all the goods in each category, as a group, from the scheduled countries for the years 1937, 1938, and 1939, this average being multiplied by an arbitrary figure intended to provide for the domestic supply situation as well as for the increase in prices over the prewar period. For textiles the quota was 400 percent of the average value of imports in 1937-39; for all other categories it was 200 percent of the average for these years.

Since the soft-currency countries have been unable to supply commodities in amounts corresponding to their prewar share of total imports, they have not filled their quotas. Consequently the quotas have in effect applied only to imports from the United States, the Soviet Union, Switzerland, Cuba, the Dominican Republic, El Salvador, Guatemala, Haiti, Panama, and Venezuela. The selection of these so-called scheduled countries was based on the fact that in November 1947 they were not short of dollars. Since all except the United States are relatively unimportant suppliers of Canadian imports, the quotas actually apply almost entirely to imports from the United States.

Canada did not begin to use the licensing system to control imports in November 1947, as it did embargoes and quotas, but introduced it gradually in 1948. Licensing was applied to capital goods and certain industrial raw materials. Licenses are issued on the basis of essentiality. Among the alternative criteria set up for defining essentiality is that the commodity for which an import license is sought shall provide for the production in Canada of a manufactured product suitable for export; this requirement has exerted considerable pressure on Canadian manufacturers to increase exports, especially to dollar countries. Another alternative criterion, which operates to increase Canada's economic self-sufficiency, is that the proposed import shall provide for the fabrication in Canada of a product or parts, formerly imported, which are essential to the Canadian economy.

The Canadian Government has stated that the restrictions on imports, including capital goods, are to be temporary. In anticipation of the likelihood that the control over imports of capital goods would stimulate Canadian production of embargoed goods, the Government also imposed special excise taxes, amounting generally to 25 percent ad valorem, applicable to domestic sales of the embargoed goods whether produced in Canada or imported. These taxes, which were for the purpose of discouraging consumption, were apparently very effective. They were very unpopular, however, and were repealed on August 1, 1948.

By the late summer of 1948, the Canadian foreign-exchange position had improved to such an extent that the Government began gradually to relax the import controls. Relaxation consisted mainly in transferring items from the embargo list to the quota list and in enlarging the quotas. The improvement in Canada's balance of payments was due to a number of circumstances, including a marked increase of exports to the United States in 1948 and the flotation of a Canadian loan in New York. Exports to the United States increased chiefly in response to the high prices and heavy demand in this country for Canadian goods, particularly forest products and animals. Lifting of the Canadian export embargo on beef cattle and beef, which had been applied in 1943 in the interest of Canadian price controls and wartime meat supplies to the United Kingdom, was of special importance. Tariff concessions granted by the United States to Canada in the General Agreement also undoubtedly were a factor.

The Canadian tariff concessions made to the United States at Geneva in 1947 were in large part temporarily nullified by the system of import prohibitions and restrictions. However, these emergency measures were not in contravention of the General Agreement inasmuch as they were imposed in accordance with article XII of the agreement, which permits prohibitions and quantitative restrictions on imports when necessary to safeguard a country's balance of payments. Actually, as an examination of the lists of prohibited and quota imports clearly shows, the restrictions primarily affected imports from the United States. There was, however, no discrimination necessitating invocation of the exceptions to the principle of nondiscriminatory treatment, as provided in article XIV, since the Canadian measures applied to imports of the specified commodities from all sources.

Australia and New Zealand

The wartime and postwar quantitative import controls in Australia and New Zealand have run a course very similar to that in Canada. Both countries instituted exchange control and import prohibitions and restrictions at the beginning of World War II in order to conserve nonsterling exchange, chiefly United States and Canadian dollar exchange. After the war Australia and New Zealand relaxed their import controls considerably, but not to the degree that they were relaxed, for a time, in Canada; imports into these countries were still limited to what the authorities determined to be essential.

In 1947 and 1948 the dollar deficit in Australia and New Zealand became so acute that both governments decided that more stringent controls would have to be imposed on imports from the dollar areas. This action was taken after consultation with the United Kingdom Government. The question of increasing tariff duties as a method of restricting imports was never seriously considered, either before or after the General Agreement.

Australia put its new system of import controls into effect in November 1947, which was approximately the time that similar action was taken by Canada. The regulations prohibited all imports from dollar countries except under license and placed many of the commodities for which licenses were obtainable on a quota basis, including automobile chassis, newsprint, tobacco, motion-picture films, and machinery.

Normally Australia has a dollar deficit in its trade with the United States, although in the fiscal year 1946–47 there was a slightly favorable balance of merchandise trade with this country. In 1947–48, however, Australian imports from the United States exceeded exports to this country by more than 100 million dollars, largely because of unusually heavy imports, during the last half of the calendar year 1947, of textiles, machinery, and other commodities in short supply in Australia and in the other Commonwealth countries. In order to correct this trend in its balance of payments, the Australian Government took action permitted countries in balance-of-payments difficulties under the General Agreement, which became effective January 1, 1948. The Government called in for review outstanding import licenses, representing a value of about 166 million dollars, and canceled approximately one-third of these licenses (in terms of the value of the imports). Imports from the United States and Canada were most heavily affected by these cancellations. Licenses covering some of the more essential imports were later revalidated.

For the licensing year 1948–49, Australia set a limit of a little more than 200 million dollars for imports from dollar areas, representing a reduction of more than one-fifth from the imports from those areas in the preceding year. Licenses are issued more freely for imports from sterling countries and other nondollar countries than for imports of similar goods from hard-currency countries. In general, licenses are issued for imports from hard-currency countries of highly essential articles only, representing goods which are not available (or not available in sufficient quantities) in Australia or in countries operating on a sterling basis.

New Zealand adopted essentially the same policy respecting imports from hard-currency countries as Australia did, and for the same reason, namely, a deficit in its trade with the dollar area. In 1947 New Zealand had a deficit of nearly 49 million dollars with the United States and 27 million with Canada, or a total deficit of 76 million dollars with these countries. During 1948 New Zealand progressively tightened restrictions on imports from these two sources, with the result that for the period January through August the total deficit was about 24 million dollars (16 million with the United States and 8 million with Canada).

In August 1948, the New Zealand pound was restored to parity with the pound sterling, the restoration representing an upward revaluation of the New Zealand pound by about 25 percent. Since the increased purchasing power of the New Zealand pound in foreign markets would tend to increase imports of commodities not restricted in absolute amounts, the New Zealand Government reduced the total value represented by the import licenses granted for the ensuing licensing period by an amount calculated to offset the change in the purchasing power of the currency. Under the licensing schedule announced for 1949, the policy is to restrict imports from dollar countries to goods regarded as absolutely essential which cannot be obtained from sterling sources. Applications for licenses are considered on their individual merits.

Both Australia and New Zealand have continued their wartime bulk sales contracts with the United Kingdom.[11] Under these arrangements the United Kingdom agrees to purchase from these countries their exports of certain major commodities at specified prices for a stated number of years. The commodities for which such bulk contracts are now in effect between both countries and the United Kingdom are meat, butter, and cheese; the date of expiration of these contracts is 1955. In addition, the United Kingdom has contracts of shorter duration with Australia for the purchase of sugar, eggs, and dried fruit, and with New Zealand for processed milk.[12]

Union of South Africa

Postwar import controls were not reimposed by the Union of South Africa until November 1948, or a year after such action was taken by Canada, Australia, and New Zealand. The purpose, as for the other

[11] See discussion under the United Kingdom above.

[12] The important contracts for the purchase of wool were discontinued in September 1946.

dominions, was to safeguard the country's balance-of-payments position, as permitted under article XII of the General Agreement. The Union's gold reserve had been dropping at a rapid rate for several months before the new regulations, and the Government resorted to a system of import control.

The control was applied largely through the rationing of foreign exchange. Imports of certain specified articles were prohibited from all sources except under special permit, and imports of all other commodities were governed by exchange rationing. The rationing was applicable only to currencies which cost the Union gold; that is, it applied to all hard currencies, of which the United States dollar is by far the most important in the trade of the Union. The exchange-quota period was established as from July 1, 1948, to June 30, 1949; during this period exchange for the purchase of imports originating outside the sterling area could not be sold (with certain exceptions) in excess of a quota representing 50 percent of the value of the importer's total imports from nonsterling countries during the calendar year 1947. Owing to the fact that exceptions and prior commitments to buy in the United States and in other dollar countries continued to drain the Union's gold supply more rapidly than had been anticipated, there appeared to be little likelihood at the beginning of 1949 that any of the restrictions would be soon relaxed, and there was considerable evidence that they would be made more severe.

The Union of South Africa has also taken steps to release itself from certain obligations regarding transactions with the sterling area. Late in 1947 the Union ceased drawing on the sterling-area dollar pool and became responsible for its own hard-currency requirements, including both United States and Canadian dollars. In general, the free movement of capital is permitted within the sterling area, but, owing to what the Union Government regarded as excessive movements of capital into the Union, an agreement was reached with the United Kingdom in March 1948 providing for consultation regarding measures necessary to control such movements of capital.

India, Pakistan, and Ceylon [13]

India, Pakistan, and Ceylon, in common with other Commonwealth countries, have applied import controls to safeguard their balance-of-payments positions, as permitted by the provisions of the General Agreement.

Under India's present licensing policy with respect to imports from dollar areas, all commodities are divided into three categories: (1) Commodities for which licenses are issued liberally, (2) those licensed subject to a monetary ceiling, and (3) those not licensed for importation at all.

[13] For action with respect to tariffs, see ch. 5.

A number of items on which India made tariff concessions in the General Agreement fall under categories (2) and (3).

Pakistan's import policy in 1948 was less restrictive than that of India, in that its import regulations permit a more liberal licensing of commodities from dollar areas. Ceylon put no new exchange or import controls into effect during 1948 affecting trade with the United States. As pointed out in chapter 5 both Pakistan and Ceylon were granted permission by the other contracting parties under the General Agreement to renegotiate certain tariff concessions granted at Geneva in 1947.

Other Contracting Parties to the General Agreement

In addition to the 9 Commonwealth countries, 13 other countries are associated with the United States under the General Agreement on Tariffs and Trade. These countries are Belgium, the Netherlands, and Luxembourg (the Benelux countries), Czechoslovakia, France, and Norway, in Europe; Brazil, Cuba, and (since March 1949) Chile, in the Western Hemisphere; and China, Burma, Lebanon, and Syria, in Asia. Of these, Burma is the only one which is a member of the sterling area.

All these countries except Cuba maintain some degree of control over dealings in foreign exchange and require import licenses for all or part of their imports. The stated purpose of these restrictions, as of similar action by the Commonwealth countries, is to reduce imports from the United States and other hard-currency countries in order to reduce the adverse trade balances with these countries or to prevent an increase of such balances. Since action of this sort is permitted for balance-of-payments reasons under the General Agreement, there has been no occasion for the United States to object to the restrictions. However, during 1948 a few actions involving the interest of the United States, and taken entirely apart from balance-of-payments considerations, have been the subject of discussions.

Brazil [14]

Although the actions of Brazil have not contravened its obligations under the General Agreement (the United States did not protest certain action which was not in harmony with the 1936 agreement between the United States and Brazil during the period January 1 to July 30, 1948, when that agreement remained in effect), Brazil's quantitative restrictions on imports have resulted in substantial reductions in its imports from the United States and other countries with which it has been in balance-of-payments difficulties.

Brazil's trade with the world and with the United States normally results in a substantial excess of exports over imports which provides

[14] For action with respect to tariffs, see ch. 5.

funds to cover the cost of shipping, insurance, service on foreign investments in Brazil, and the like. During the first 6 months of 1947, however, the value of exports to the United States was barely half that of imports from the United States, and exports to all countries were about 90 percent of imports therefrom. The unfavorable turn in Brazil's foreign trade, which was apparent before the end of 1946, severely reduced its reserves of gold and foreign exchange, particularly dollar exchange, and led to the imposition of new import controls.

In March 1947 Brazil added 135 items to the list of goods for which import licenses were required, and on June 4, 1947, it subjected all foreign-exchange transactions to rigid control by the Bank of Brazil. The import-license system in effect before March 1947 had affected only a few items, principally rubber products and other items available in substantial quantities from domestic supplies.

In February 1948, all Brazilian imports, except foodstuffs of prime necessity, cement, and pharmaceuticals, were placed under a prior-license system. The export-import control law of that date, which became effective in April 1948 and which is still in operation, made essentiality the primary basis for the issuance of import licenses. In determining essentiality the license authorities considered the availability of domestic goods of satisfactory quality and price. They also took into consideration the current supply of foreign exchange. They were more lenient toward imports from soft-currency areas than toward imports from hard-currency areas.

Brazil's import licensing system of 1948 was applied before the trade agreement of 1936 with the United States had been superseded by the General Agreement, which became effective for Brazil on July 31, 1948. Although the action would have been consistent with the General Agreement if that agreement had been in effect, it was not in harmony with the trade agreement of 1936. However, the United States did not protest Brazil's restrictions during the period of 7 months when the old agreement was in effect. Very few licenses were issued when the system was first put into operation, but, as Brazil's dollar position improved in 1948, licenses were issued more freely.

This system of trade control was a major factor contributing to the improvement of Brazil's balance-of-payments position in 1948. Imports in 1948 amounted to 1,116 million dollars, or 96 million less than the the record peak of 1947; exports in 1948 amounted to 1,153 million dollars, or 27 million more than exports of the preceding year. In trade with the world, there was an export balance of 37 million dollars in 1948, compared with an import balance of 86 million dollars in 1947; in trade with the United States, the import balance in 1948 was 79 million dollars, or approximately one-fourth the import balance of 1947.

Cuba [15]

Cuba is one of the few countries which export more to the United States than they import from this country. For this reason it has none of the exchange-control problems of countries with a chronic dollar shortage. For about 2 months in the summer of 1948, however, Cuba maintained quantitative restrictions on imports of textiles, using the control device of import permits. This action was taken because of an alleged increase in textile imports which had resulted in the shutting down of several textile mills in the country. The United States objected to these restrictions as being in contravention of the General Agreement and undertook through diplomatic channels to have them removed. This attempt having failed, the United States called the matter to the attention of the CONTRACTING PARTIES (all capitals when referring to the countries acting as a group) to the General Agreement, which found that the restrictions were in contravention of Cuba's obligations under the agreement. Thereupon Cuba immediately removed the restrictions.

France

France has continued exchange controls and quantitative restrictions imposed because of its balance-of-payments situation. The only matter of any consequence between the United States and France under the General Agreement, however, resulted from a request of the French Government for renegotiation of the Franco-American motion-picture understanding of 1946. The French requested the renegotiation in January 1948, but the understanding of 1946 expired before a conclusion satisfactory to both governments was reached. Further negotiations resulted in the Joint Declaration of September 16, 1948, which established a distribution system for American films in France believed to be consistent with the provisions of article IV of the General Agreement. Under article IV, members are permitted, subject to certain conditions, to establish or maintain internal quantitative regulations (screen quotas) relating to exposed cinematograph films. In effect, the Joint Declaration permits France to reduce imports of American motion-picture films by a certain amount. The United States regards the new arrangement as consistent with the obligations of France under the General Agreement.

COUNTRIES WHICH ARE PARTIES TO PRE-GENEVA TRADE AGREEMENTS WITH THE UNITED STATES

Trade agreements negotiated before the Geneva agreement are still in force between the United States and 20 foreign countries. These include 5 European countries all of which have introduced or maintained extensive quantitative restrictions on imports in the postwar period. Of the 14 Latin American countries with which pre-Geneva trade agree-

[15] For action with respect to tariffs, see ch. 5.

ments are in effect,[16] some have and some have not made extensive use of quantitative import restrictions or exchange control. Iran, with which the United States has an agreement negotiated before the General Agreement, has also applied quantitative restrictions on imports during the past year. In most of these countries quantitative restrictions on imports and exchange control have been attributed to balance-of-payments difficulties.

There is considerable variation in the pre-Geneva agreements as to provisions regarding the use by contracting countries of quantitative restrictions on imports and the application of exchange control. The agreements with Mexico, Argentina, Paraguay, Peru, Uruguay, and Iceland provide that quantitative restrictions may be imposed in order to maintain the exchange value of the currency of the country concerned. Such provisions were introduced for much the same reasons and have about the same significance as the provision of the General Agreement permitting the application of quantitative restrictions on imports for balance-of-payments reasons. Most of the pre-Geneva agreements do not contain any corresponding provision. Several times, however, when the other contracting countries have been confronted with balance-of-payments difficulties, the United States has not considered it advisable to insist that these countries comply with their commitments as to the use of quantitative controls. Such insistence would almost certainly have resulted in the termination by the other countries of their trade agreements with the United States.

Argentina [17]

Article IV of the trade agreement of 1941 between the United States and Argentina provides for adherence to the principle of nondiscrimination in the operation of all measures of exchange control. However, in an exchange of notes appended to the agreement, the United States, cognizant of Argentina's critical shortage of free foreign exchange arising principally from the blocking of exchange received in payment for exports to the sterling area, agreed to waive the benefits of article IV as to the special exchange preferences granted by Argentina to the United Kingdom, until the sterling balances should become convertible into free currency.

Article XI of the agreement prohibits either country from imposing quantitative regulations on the importation or sale of any article enumerated in the schedules of concessions, except in conjunction with governmental measures to regulate production, market supply, or prices of like domestic articles; to increase the labor costs of production of

[16] Includes Nicaragua. The duty concessions in the trade agreement between the United States and Nicaragua, effective October 1936, were terminated in March 1938.

[17] For action with respect to tariffs, see ch. 5.

such articles; or to maintain the exchange value of the currency of the country. Article III guarantees the extension of the principle of nondiscriminatory treatment in the operation of quantitative regulations regarding all imports, including nonconcession as well as concession items. There is no provision in the Argentine agreement which requires the country establishing quantitative regulations on concession items to give written notification to the other country or to consult with that country before taking such action.

At the beginning of the postwar period Argentina had a considerable supply of foreign exchange, particularly dollars and pounds sterling. By the end of 1947, however, its foreign-exchange position had become serious partly because of increased purchases abroad, especially in the United States, partly because of other foreign expenditures, and partly because of the United Kingdom's action in August 1947 of suspending convertibility of sterling into dollars. In an effort to solve its balance-of-payments problem, Argentina continued to apply measures of exchange control and quantitative restriction of imports on an increasingly stringent scale.

During 1948 exchange permits were the only authority required to enter imports of most classes of articles into the country, but import permits also were required for some items which were subject to quota restrictions and for products similar to those of Argentine industries declared to be of national importance. Regulations controlling the granting of exchange permits have been altered repeatedly. Throughout 1948 exchange permits were severely restricted for payment of imports in dollars, but were, in general, issued freely for certain products if imported from areas using, as the monetary unit, the Belgian franc, French franc, Spanish peseta, Dutch florin, and pound sterling, or if imported from Peru and contiguous countries except Brazil. In September 1948, when balance-of-payments difficulties developed with countries outside the dollar area, the Argentine Government suspended preferential treatment previously accorded imports from soft-currency areas. At that time applications for exchange permits for all imports, irrespective of country of origin, became subject to the system of prior study by the Central Bank. Regulations governing the issuance of licenses continued to be based primarily on essentiality of the goods to be imported, and favored countries with which Argentina had signed bilateral payments agreements.

Argentina's system of exchange control has undoubtedly resulted in diverting some import trade from the United States to other countries, although the exact amount is indeterminate. The actions of Argentina in respect to nontariff trade controls are not clearly in contravention of its agreement with the United States because of the exchange of notes mentioned above.

Mexico [18]

The balance-of-payments difficulties which Mexico has encountered since World War II have been described in chapter 5 of this report. These difficulties, together with a desire to increase protection to Mexican industries, led Mexico in 1947 and 1948 to increase its duties on a large number of items and to impose quantitative restrictions.

At no time since the 1943 agreement between the United States and Mexico became effective has Mexico used the device of exchange control in conjunction with its other measures to restrict imports. Since 1944, however, import licenses have been required for a constantly changing list of items. A few of the items on which Mexico had granted concessions to the United States in the agreement of 1943 have been included in this list, but only after consultation with the United States.

One of the principal objectives of the Mexican import-license system was to protect the exchange position of the country during the postwar period; therefore, action to include concession items in the list of commodities for which import permits were required was not in contravention of the agreement with the United States. Article X of that agreement permits the imposition of quantitative regulations on concession items after consultation with the United States, in conjunction with governmental measures to maintain the exchange value of the currency.[19] In this respect article X permits action similar to that permitted for balance-of-payments reasons under the General Agreement on Tariffs and Trade.

Another objective of the Mexican import-license system undoubtedly was to protect domestic industries which had been established or expanded during the war. In February 1948, items subject to United States export control were added to the list of items requiring Mexican import permits in order to ensure Mexico of an equitable share of these commodities, prevent reexportation of them, and control distribution of them within Mexico. By December 1948 the only concession items included in the list of commodities requiring Mexican import licenses were lard, wheat, wheat flour, barbed wire, some articles of sanitary ware, certain paints, and certain synthetic resins, most of which were then subject to export-license control in the United States.

The most important nontariff action affecting imports from the United States was taken in July 1947, when Mexico placed an import embargo on a wide range of goods designated as nonessential and luxury-type, including certain articles on which it had granted concessions to the United States in the trade agreement of 1943. The concession items in the list of prohibited imports included passenger automobiles, trucks,

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[18] For action with respect to tariffs, see ch. 5.

[19] Article X also provides for the imposition of quantitative regulations on concession items in conjunction with governmental measures operating to regulate production, market supply, quality, or prices of like domestic articles, or tending to increase the labor costs of production of such articles.

refrigerators, radios, phonographs, apples, grapes, prunes, raisins, wine, whisky, and numerous articles of furniture and wearing apparel. Some of these concession items had been previously subject to import license. The action prohibiting imports of concession items was taken under the provisions of article X mentioned above.

Mexico removed the import embargo on whisky in May 1948. Imports of the other concession items listed above are still prohibited. Although the Mexican Government continues to prohibit importation of assembled automobiles, it permits limited importation of parts for assembly in Mexico. Since all assembly plants in Mexico are subsidiaries of United States firms, United States exports are the only participants in the quota. Automobile parts are the only articles imported into Mexico which are subject to quota.

Sweden

The trade agreement of 1935 between the United States and Sweden provides in article VII that neither country shall impose quantitative regulations on imports from the other country of articles enumerated in the schedules of concessions, except, after consultation, in conjunction with governmental measures regulating production, market supply, or prices of like domestic articles. In the event of imposition of quantitative restrictions on imports of any articles originating in either country, article II guarantees each party nondiscriminatory treatment. There is no provision in the agreement permitting use of quantitative regulations specifically for balance-of-payments reasons. In article IX each country agreed that if it established exchange control, the share of the total available exchange allotted to the other country would be determined on a fair and equitable basis.

Owing to balance-of-payments difficulties, which became acute early in 1947, Sweden established stringent quantitative import restrictions designed to limit imports, from all countries, to commodities required by Swedish industry. The Swedish Government requested permission of the United States to impose import quotas on items covered by Sweden's schedule of concessions. As a result, the agreement of 1935 was modified by an aide-memoire on June 24, 1947, to the extent of permitting Sweden to restrict imports of any concession item between January 1, 1947, and June 30, 1948, to 150 percent of the quantity imported during 1946. Sweden also guaranteed continued free transfer of funds in payment of current imports and other commercial transactions.

These commitments were generally fulfilled until February 11, 1948, when the United States agreed to suspension of them under certain conditions, in response to further representations from the Swedish Government. In the understanding of that date, Sweden was granted permission, for the period until June 30, 1948 (later extended to June 30, 1949, or until Sweden becomes a contracting party to the General Agreement), to base its import licenses on essentiality. Sweden agreed, however, not to apply the rule of essentiality to goods which had already been especially manufactured or prepared for sale in Sweden; it was recognized that failure to grant licenses for these goods would result in hardship to the United States exporter. The temporary agreement of 1948 also released Sweden from the commitment made the previous year not to restrict the transfer of payments on current transactions, including payments for imports. This release was granted to prevent Sweden's holdings of hard currency from falling below a minimum working balance.

Turkey

Under the provisions of article V of the 1939 trade agreement between the United States and Turkey, quantitative restrictions on imports of products covered by schedules of concessions are prohibited, except in conjunction with governmental measures operating to regulate production, market supply, or prices of like domestic products, or tending to increase the labor costs of production of such products. Written notification at least 2 months in advance is required before the establishment or alteration of such import restrictions. Quantitative restrictions on nonscheduled products are permitted, but article VII of the agreement provides that such restrictions on both scheduled and nonscheduled items are not to be applied in such a way as to discriminate against the other contracting country. As in the agreement with Sweden, there is no provision in this agreement permitting the use of quantitative restrictions specifically for balance-of-payments reasons.

Nondiscriminatory treatment as to exchange controls applied by either country is guaranteed by the provisions of article VIII. Moreover, in article IX and in a note appended to the agreement, Turkey guaranteed to make freely available during each calendar year foreign exchange for payment of commercial imports from the United States (i.e., excluding military supplies imported by the Turkish Government) in an amount equivalent to about 11 percent of Turkey's total commercial imports that year. This ratio represented the proportion of Turkey's total commercial imports supplied by the United States during 1935–37. After the elimination of imports from Germany in 1944 and the curtailment of imports from the other industrial countries of Europe, the share of Turkish imports supplied by the United States far exceeded this ratio, and dollar exchange was made available by the Turkish Government for payment for those imports.

By the end of 1947 exhaustion of Turkey's dollar reserves and suspension of sterling convertibility led to a tightening of import controls designed to confine dollar expenditures to essentials. At present most of the products on which Turkey granted concessions to the United

States in the 1939 agreement, as well as many nonscheduled items which are of interest to the United States, are included in an authorized import list. Since the spring of 1948, however, Turkey has virtually ceased to issue import permits for United States products except for items such as petroleum, pharmaceuticals, and spare parts for machinery which cannot be obtained elsewhere and are essential to the economy of the country. A similar restrictive policy toward issuance of licenses for imports from the sterling area was initiated in November 1948, after Turkey's supply of sterling exchange also had become exhausted. On the other hand, Turkey concluded a number of agreements during 1948 with other countries involving bilateral clearing arrangements, and these agreements allowed entry from the respective participating countries of some items not eligible for importation from the United States.

The operation of Turkey's restrictive trade policy is not reflected in its trade statistics for 1948, partly because of the length of time required to fill orders and ship goods to Turkey. These statistics show continued large imports from the United States, accounting for 23 percent of total Turkish imports in 1948. For the first time since the war, however, the United Kingdom appeared in 1948 as the leading source of Turkish imports, the result of Government measures to utilize sterling reserves.

Since August 1948 the tax imposed by the city of Istanbul on theater tickets has been 25 percent of the admission price for locally produced films and 70 percent for imported films. This discrimination affects chiefly United States films and is contrary to the provisions of article III of the trade agreement between the United States and Turkey. These provisions assure United States products of national treatment in respect to all internal taxes. The matter was brought to the attention of the appropriate Turkish authorities and awaits action.

Other Pre-Geneva Trade-Agreement Countries

Although some of the remaining countries with which the United States has pre-Geneva trade agreements exercise various degrees of control (besides tariffs or other charges) over imports or dealings in foreign exchange, no problems of special importance arose in 1948 in the application of most such controls. A few of the actions taken by these countries, however, are discussed below.

Switzerland

Although Switzerland is a hard-currency country and in 1948 had no balance-of-payments difficulties, it maintained quantitative regulation (notably through quotas) of imports. Quantitative regulation of imports was a feature of Switzerland's control of the country's import trade when the 1936 trade agreement between the United States and Switzerland was negotiated, and the agreement contemplated continued application of such regulation by Switzerland. Thus, some of the most important concessions made by Switzerland in the agreement related to improved treatment, under this quantitative regulation of imports, of certain commodities from the United States. Switzerland participates in the European network of trade and payments agreements which is designed to balance trade on a bilateral basis. Quotas provide an effective instrument for improving Switzerland's bargaining position.

Finland

Finland is a soft-currency country which has experienced an acute shortage of dollar exchange and has maintained exchange and import controls in order to safeguard its balance of payments. Finland's trade controls, however, are publicly announced and are applied on a nondiscriminatory basis consistent with the terms of the trade agreement of 1936 between the United States and Finland.

Iceland

The trade agreement of 1943 between the United States and Iceland requires a nondiscriminatory application of any quantitative import restrictions or exchange controls that may be used by either country. Because of currency difficulties, Iceland maintains import controls designed to safeguard its balance of payments. These controls have been applied without contravention of the agreement.

Iran

Iran has a scarcity of dollars and a relative abundance of sterling exchange; for some time it has maintained a system of import restrictions and exchange control for the purpose of safeguarding its balance of payments. Iran has been permitted, however, under the Anglo-Iranian financial agreement to exchange sterling for dollars on liberal terms. A measure passed by the Iranian Parliament in June 1948 provides that the Government may issue import licenses for the importation of all goods only to nationals of the country or to companies owned by Iranian nationals. Since this requirement applies to all nonnationals, it has not been regarded as violating the general provisions of the trade agreement of 1944 between the United States and Iran. In 1948, however, the United States requested Iran to observe equality of treatment of United States motion-picture films. This request resulted from the application by Iran of a decree authorizing exemption of domestically made motion pictures from municipal admission taxes.

Peru [20]

Peru has maintained quantitative import restrictions and exchange control, principally owing to balance-of-payments difficulties, since early

[20] For action with respect to tariffs, see ch. 5.

in 1945. These restrictions appear not to conflict with the terms of the trade agreement of 1942 between the United States and Peru. This agreement provides that import restrictions may be imposed in order to maintain the exchange value of the currency of the country concerned. Changes made in Peru's import controls in 1948 were approved as temporary measures by the International Monetary Fund. These changes included provisions prohibiting the importation of articles designated as luxury or nonessential articles. Over half of the items in the Peruvian tariff were affected by the prohibition.

Chapter 7

Action by the United States Regarding Import Controls

During 1948 the United States put into effect those concessions made by it which were negotiated with countries provisionally applying the General Agreement on Tariffs and Trade (see ch. 3). It also continued in effect all concessions granted in those bilateral trade agreements which remain operative.[1] Moreover, no United States rates of duty were increased in 1948, even on articles not covered by trade agreements. Several requests, however, were made by domestic interests during the year and in the early months of 1949 for modification or withdrawal of certain concessions by the "escape-clause" procedure. These requests are discussed in the following section of this report. Also discussed in subsequent sections are certain nontariff controls of imports in effect in 1948. These include an import-licensing system covering various fats and oils, oilseeds, and rice; mixing regulations respecting the use of synthetic rubber; and import quotas applicable to wheat and flour, cotton, and sugar.

Requests for Escape-Clause Action

During 1948 and the first few months of 1949 the Tariff Commission, functioning under the directives of Executive Orders 9832 and 10004, received seven applications for investigations with a view to invoking the escape clause of trade agreements. Six of these were based on the escape clause of the General Agreement on Tariffs and Trade and one (relating to spring clothespins) on the escape clause of the trade agreement with Mexico. Four of the applications—relating to marrons (chestnuts), candied or preserved; whiskies and spirits; petroleum; and hops valued at 50 cents or more per pound—were dismissed, the Commission deciding, on the basis of the facts stated by the applicants and of other available information, that there was no evidence of any injury or threat of injury to the domestic producers from increase of imports due to the concession that would warrant a formal investigation. Such

[1] The trade-agreement concessions by the United States in effect on January 1, 1948 (including the Geneva concessions) were analyzed in the report of the Tariff Commission on the *Operation of the Trade Agreements Program* (first report), pt. 3. In that report the scope of the concessions, as well as their effect on the average rate of duty, was measured on the basis of the imports of 1939 (the scope of concessions but not the effect on the average rate of duty was also measured by the imports of 1946). In a recent study the scope of the concessions and the effect on the average rate of duty have been measured by the imports of 1947 (U. S. Tariff Commission, *Effect of Trade Agreement Concessions on United States Tariff Levels Based on Imports in 1947*, 1949, [processed]).

dismissal, of course, does not preclude the interested parties from making a subsequent application should conditions change so as to warrant a new application. Two of the applications—relating to knitted wool berets valued at more than $2 per pound, and reeds and cane manufactured from rattan—are under consideration to determine whether formal investigations are warranted. On one application, relating to spring clothespins, a formal investigation has been ordered and is currently in progress.

Licensing of Imports

Control of imports by means of licenses issued to importers on individual shipments was adopted by the United States during the war under the Second War Powers Act of 1942. Exports were similarly controlled as part of a comprehensive plan for conserving shipping space and for coordinating all foreign trade of the United States with its own war needs and those of its Allies. Coordination on a smaller scale continued after the war as part of the recovery and rehabilitation effort, the import-license system being utilized to aid in the equitable world distribution of materials in short supply. In October 1945, general direction of the world-wide plan, so far as it concerns agricultural and fishery products, was vested in the Food and Agriculture Organization of the United Nations. During 1948 practically the whole program of import licensing by the United States consisted of carrying out the multilateral decisions of the International Emergency Food Council, established by FAO, the operating agency for the 55 member nations.

Commodities subject to import license during 1948 on which the United States had made tariff concessions in the General Agreement are butter, coconut oil, palm-kernel oil, peanut oil, broken rice, soap and soap powder, and inedible tallow. Also in the license list are the following commodities, on which concessions had been made in bilateral agreements with Argentina, Uruguay, and Paraguay: Sunflower oil, flaxseed, oleo oil and stearine, and tallow.[2]

United States imports of these commodities in 1948 were undoubtedly less—in some instances much less—than they would have been in the absence of import controls, since the general shortage of dollar exchange constituted a strong urge on the part of exporting countries to ship to this market. The effect of the system on imports, however, varied markedly from one product to another. There is some evidence, for example, that United States imports of butter would have been considerably larger in the absence of the controls. On the other hand, the wartime development of a flaxseed-crushing industry in Argentina, the policies of the Argentine Government restricting the export of flaxseed to the United States, and the great increase in United States production in-

[2] Unless renewed the act under which import licenses are required will expire June 30, 1949.

duced by the price-support program were much more effective than the licensing system in limiting United States imports of flaxseed in 1948.

In a broader sense, however, it is needless to consider whether the licensing system has restricted United States imports so as to impair the value to foreign countries of any trade-agreement concessions made by the United States. The very purpose of the import-licensing system during the postwar period has been to direct materials to areas where they are in deficient supply. All countries party to the General Agreement on Tariffs and Trade and more than 30 other nations have collaborated in the conception and administration of the licensing system, which is clearly authorized by article XX of the General Agreement.

Mixing Regulations for Rubber

Crude india rubber was bound free of duty by the United States in trade agreements with the United Kingdom in 1939 and with Peru in 1942, and in the General Agreement signed at Geneva in 1947. The only action taken by the United States which could affect the value of this binding to foreign countries is the practice of requiring that specified minimum proportions of domestically produced synthetic rubber be used in the manufacture of certain rubber products, principally tires and tubes for motor vehicles. This practice, begun during the war, has been continued as a means of preserving a domestic synthetic-rubber industry.

The regulations in effect during most of 1948 were prescribed in the Rubber Act of 1948 (Public Law 469, 80th Cong.), which provides for continued Government ownership and control of production and consumption of synthetic rubber in the United States. This act became effective April 1, 1948, and will expire June 30, 1950. It charges the President with the responsibility of maintaining within the United States, rubber-producing facilities having an annual production capacity of not less than 600,000 long tons of general-purpose rubber and not less than 65,000 long tons of special-purpose rubber. At least 45,000 long tons of the special-purpose rubber is to be of a type suitable for use in pneumatic inner tubes. The greater part of these facilities, however, would not be required to be actually in operation; they could be kept in stand-by condition. The act provides that annual United States consumption of domestic synthetic rubber shall be not less than 200,000 long tons of general-purpose rubber and 21,667 long tons of special-purpose rubber. To accomplish these aims, the President is authorized to exercise allocation and inventory controls over natural and synthetic rubber, and specification controls over products containing natural and synthetic rubber. There is no control of the importation or use of foreign-made synthetic rubber by United States manufacturers of rubber articles, but the use of such foreign synthetic rubber, of course, is not credited to manufacturers as consumption of domestic synthetic rubber required by rubber orders issued by the United States Department of Commerce under Public Law 469.

The rubber mixing regulations of the United States do not conflict with any of its trade-agreement obligations (nor would they conflict with the ITO Charter if it should enter into effect).[3] The General Agreement (art. III, par. 4) exempts from the prohibition against mixing regulations which require a specified proportion of the product to be supplied from domestic sources such regulations as were already in force on April 10, 1947, or similar regulations which are not more restrictive. The United States mixing regulations under the Rubber Act of 1948 are not more restrictive as to the use of imported rubber than those in force in April 1947.

Under certain circumstances, of course, these mixing regulations could restrict the importation of rubber into the United States. It seems unlikely, however, that they did so during 1948. In that year about 102,000 long tons of domestic general-purpose synthetic rubber was used by manufacturers for nontransportation purposes for which the use of the synthetic product is not required by the regulations. Such use of domestic synthetic instead of imported natural rubber, being entirely voluntary, was presumably dictated by commercial considerations. This view is supported by the course of prices in 1948. The price of general-purpose synthetic rubber (GR–S) produced in Government-owned plants (accounting for 90 percent of the total output) was fixed at 18.5 cents a pound, plus a standard freight charge, in carload lots, of three-fourths cent a pound delivered to any point in the United States; whereas the average New York price for standard grade (Ribbed Smoked Sheet No. 1) natural rubber during 1948 was 22 cents a pound. This lower price of synthetic rubber apparently explains noncompulsory use of it in the manufacture of many products not requiring natural rubber for technical reasons. Assuming that the fixed price of the synthetic rubber was determined by commercial considerations in the sense that it permitted a profit after the payment of a reasonable rental for the use of Government-owned plants, it would appear that the United States rubber policy had no restrictive effect on imports in 1948.[4] In 1949, however, the price of natural rubber fell below that of synthetic rubber.

[3] See also subsequent discussion on the provisional character of the general provisions of the General Agreement on Tariffs and Trade at present, in the section on import quotas.

[4] The interest of the United Kingdom in United States rubber regulations is indicated by the inclusion of a provision in section C of schedule XIX of the General Agreement. In that section the United Kingdom agreed to the reduction of certain Empire tariff preferences but reserved the right to make these concessions inoperative during the whole of any calendar year which immediately follows a calendar year in which the quantity of general-purpose synthetic rubber required to be consumed in the United States pursuant to United States mixing regulations exceeds 25 percent of total United States consumption of natural, synthetic, and reclaimed rubber. This entire section of schedule XIX, however, has been suspended pending renegotiation (see Department of State Press Release No. 261, Mar. 31, 1948).

Import Quotas on Wheat and Wheat Flour, Cotton, and Sugar

During 1948 and thus far in 1949 the United States has had in force quantitative restrictions (quotas [5]) on the importation of three articles or groups of related articles. Two of these quotas were established under section 22 of the Agricultural Adjustment Act, which authorizes the President to restrict imports when they tend to render ineffective programs of the Department of Agriculture; these quotas relate to wheat and wheat flour and to cotton (distinguishing between short- and long-staple cotton [6]). The other, relating to sugar, was established by a special act of Congress.

The only trade agreements of the United States which would have any bearing on the quotas on these three articles are the General Agreement on Tariffs and Trade (adopted at Geneva in October 1947 and effective, except in certain respects, January 1, 1948) and the bilateral agreement with Peru (effective 1942). The provisions of the General Agreement might relate to all three of the quotas above mentioned, whereas the agreement with Peru would be significant only for cotton and sugar.[7]

As yet the General Agreement is effective only provisionally. Until it becomes definitively effective, its general provisions, such as those relating to quotas, are binding only to the extent that they do not conflict with previously existing laws of the contracting parties. The United States laws relating to all three of the quotas above mentioned were already in effect when the General Agreement was concluded. Nevertheless it is worth while to consider the relation between the quota arrangements of the United States and the provisions of the General Agreement, should it later become definitively effective, especially in view of the fact that in this respect the provisions of the proposed ITO Charter parallel those of the General Agreement.[8]

With respect to quotas, the provisions of the General Agreement and the provisions of the agreement with Peru may be summarized as follows:

(1) The General Agreement permits the application of quantitative

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[5] This section relates only to quotas which limit the total quantity of imports. Such "absolute" quotas are to be sharply distinguished from "tariff" quotas, established for a number of individual articles in certain trade agreements, which provide that specified quantities of the articles may enter at reduced rates of duty, overquota imports being subject to higher rates but with no absolute limit.

[6] Except cotton having a staple length of 1$^{11}/_{16}$ inches or more. Such cotton has not been subject to quota since December 19, 1940.

[7] In the present report only the quotas on total imports of sugar, raw and refined combined, are discussed. The Tariff Commission's recent *Report on the Havana ITO Charter* discusses whether, under the charter if it enters into force, the United States could maintain separate import quotas on refined sugar, as it now does. This question might also arise under the General Agreement if it should become fully effective, but the discussion need not here be repeated.

A similar question might arise regarding the separate quota on imports of wheat flour; this question also is discussed in the *Report on the Havana ITO Charter*.

[8] The provisions of the General Agreement relate only to the treatment which a contracting party may apply to other countries which are parties to that agreement. Egypt, the most important supplier of United States imports of cotton, is not a party to the General Agreement; neither is Peru, which is interested in cotton and sugar. However, Canada, the principal supplier of United States imports of wheat, and Cuba, the principal supplier of imports of sugar (under a preferential rate of duty), are parties to the General Agreement.

restrictions on imports of agricultural and fishery products when used in conjunction with programs restricting domestic production or marketing, or under certain other conditions. The agreement with Peru is broadly similar in this respect.

(2) As to division of supply between imports and domestic production, the General Agreement (art. XI, par. 2) provides that—

any restrictions applied under (i) above shall not be such as will reduce the total of imports relative to the total of domestic production, as compared with the proportion which might reasonably be expected to rule between the two in the absence of restrictions. In determining this proportion, the contracting party shall pay due regard to the proportion prevailing during a previous representative period and to any special factors which may have affected or may be affecting the trade in the product concerned.

The agreement with Peru contains no provision on this point.

In matters specified in the section of the General Agreement above quoted, the importing country makes the decision.[9]

(3) As to allocation of permitted imports among the foreign supplying countries, the provisions of the General Agreement are roughly similar to those quoted under (2) above relating to the ratio of imports to domestic production. On this point the provisions of the agreement with Peru are broadly similar.

With respect to the relation between the quota arrangements of the United States concerning wheat and flour, cotton, and sugar and the provisions of the General Agreement and the agreement with Peru, the following statements may be made:

(1) The sugar quota fully conforms to the requirement that imports may be restricted only if domestic production or marketing is restricted. When the import quotas on cotton and wheat were first introduced, the United States was restricting production or marketing of the domestic product. These restrictions are not now being applied. If the General Agreement should come into definitive effect (or if the ITO Charter should become effective), these import quotas would probably have to be abandoned unless restrictions were again placed on domestic production or marketing.

(2) As to division of the market between imports and domestic production, the import quotas on wheat and flour and on cotton were proclaimed by the President after investigation by the United States Tariff Commission, which determined the appropriate size of the aggregate quotas on the basis of previous performance. As to cotton, moreover, the agreement with Peru contains no provision regarding this point, and neither Peru nor Egypt are parties to the General Agreement. The provisions of the President's proclamation regarding the limit of

[9] Provisions regarding consultation on this subject between the importing country and other interested countries or the CONTRACTING PARTIES as a group are contained in art. XIII, par. 4, of the General Agreement. Other provisions which might under certain circumstances be invoked are those of art. XXIII, entitled "Nullification or Impairment."

the aggregate imports of wheat and flour remained unchanged in 1948 (the actual imports of wheat were much less than the permissible quota). During 1948 supplemental allotments were granted to individual mills, on the basis of their specific needs, for imports of extra long-staple cotton (staples 1⅜ up to 1¹¹⁄₁₆ inches) during the quota year ending September 20, 1948. The share of imports in the sugar market of the United States is more fully discussed in subsequent paragraphs.

(3) As to allocation of quotas for imports among supplying countries, the wheat and flour and cotton quotas were originally so allocated on the basis of findings of the United States Tariff Commission in which data as to previous sources of supply were fully taken into account. Since 1942, allocation of long-staple cotton quotas among countries has been dropped, only global quotas being in effect. This point as regards the sugar quota is discussed below.

During August 1947 the Congress passed a new sugar act, the Sugar Act of 1948, which went into effect January 1, 1948. This act supplanted an act of 1937, which in turn supplanted an act of 1934. In adopting the Sugar Acts of 1934, 1937, and 1948, Congress took into consideration the relationship between imports and domestic production which had existed before the establishment of the quota system.

The application of sugar quotas was suspended from April 1942 to the end of 1947; otherwise a quota system has been in effect almost continuously since 1934. Under that system the total quantity to be marketed in continental United States is fixed by the Secretary of Agriculture and that quantity is allocated, in a manner specified by statute, among the domestic supplying areas (including insular areas), the Philippines, Cuba (which enjoys a preferential duty), and those countries which pay full duty on sugar entering the United States. Peru, usually the principal country supplying full-duty imports, is the only such country which supplies appreciable imports and which has a trade agreement with the United States.

During the life of the Sugar Act of 1937, particularly from 1942 to 1947, when the quota system was suspended, major changes resulting from the war occurred in the relative importance of the different sources of supply of sugar. During United States participation in the war, imports from the Philippines were entirely shut off, and they could not be resumed until 1948. At times the war also materially affected shipments from other areas, insular and foreign, to continental United States, as well as production within continental United States itself.

The change in political position of the Philippines has an important bearing on sugar quotas. The Islands were formerly a possession of the United States, but, after passing through a "commonwealth" status beginning in 1936, they became fully independent in 1946. During the commonwealth period the quantity of imports from the Philippines which could enter free of duty was specifically limited by the Philippine Independence Act. Before 1942 (in which year quotas were suspended) this quantity was in certain years less than the Philippine quota (free and dutiable) under the Sugar Act of 1937. However, since imports from the Philippines in excess of the (free) quota would have been subject to the full duty, which was much higher than the rate on Cuban sugar, the Philippines actually filled only their duty-free quota. There was thus in certain years an excess of the total quota under the Sugar Act over the duty-free quota, and this excess was available for reallocation to the full-duty countries, Cuba having no share in such allocation. Under the Sugar Act of 1948 the fixed quota provided for the Philippines is the same as the duty-free quota provided by the Philippine Trade Act of 1946 (952,000 short tons irrespective of polarization, equivalent to 982,000 short tons of raw sugar).

The act of 1937 provided for the several domestic areas—namely, mainland beet, mainland cane, Hawaii, Puerto Rico, and the Virgin Islands—specified percentages of the total quantity of sugar permitted to be marketed. It guaranteed to them in the aggregate a minimum of 3,715,000 tons annually. Usually the percentages specified resulted in aggregate quotas for the domestic areas slightly larger than 3,715,000 tons. Under the 1948 act no percentages are fixed for the domestic areas, but each of them is allotted an annual absolute quota, fixed in the act. These absolute quotas, which are also maximum quotas, for all domestic areas aggregate 4,268,000 tons.[10] The sum of the absolute quotas for the domestic areas under the 1948 act exceeds the guaranteed minimum for these areas under the 1937 act by 15 percent. The population of the continental United States as estimated by the Bureau of the Census increased about 14 percent between July 1, 1937, and July 1, 1948.

Since the quotas for domestic areas and the Philippines are fixed, the ratio of permissible imports of sugar from Cuba and the full-duty countries, taken together, to the quantity of domestic sugar permitted to be marketed will vary in future years (apart from the effect of reallocation of deficits) with the magnitude of the total quota for sugar marketings. Hence in some years the shares of Cuba and the full-duty countries will be larger, in percentage terms or in absolute quantity or both, under the act of 1948 than they would have been under the act of 1937; in other years these shares will be smaller. So long as the quotas for the domestic areas and the Philippines remain at the figures now specified by law (the act of 1948 is by its terms to be effective for 5 years), the normal growth of United States population will tend to gradually increase

[10] The Sugar Act of 1948 also contains a provision assuring to Cuba, under certain conditions, a minimum share of the United States market, and provides for pro rata reduction in the fixed quotas of the domestic areas if necessary to accomplish that purpose.

the shares of Cuba and the full-duty countries in the United States market.

An examination of the basic quotas (that is, apart from the allocation of deficits) allotted to Cuba and to full-duty countries, respectively, under the act of 1948 and under the earlier acts indicates that their relative shares have not been changed materially. The quotas are still based fundamentally on the relative quantities supplied by these countries before the quota system was introduced.

With respect to any deficit of the Philippines in supplying their quota, the 1948 act differs basically from the acts of 1934 and 1937. Under the 1937 act the entire Philippine deficit was allotted to full-duty countries, and prorated among them. In some years between 1936 and 1941 these deficits were considerable for the reason already stated. Under the 1948 act any Philippine deficit is allocated between Cuba and the full-duty countries according to ratios specified in the act. In any case Cuba is entitled to 95 percent of the deficit, and under certain conditions, to more than 98 percent. The importance of this change in the method of allocating Philippine deficits in the future will depend on the magnitude of those deficits. The Philippines supplied no sugar to the United States in the postwar years until 1948, which was the first year in which the quota system was again put into effect. The deficit in 1948 was large—so large that if it had all been allocated to the full-duty countries they could not have supplied more than a relatively small part of the deficit.[11] The actual share of the full-duty countries in the allocation of the Philippine deficit of 1948 was about 37,000 tons. With this quantity added to the direct quotas of these countries, their total allotment amounted to about 63,000 tons, practically all of which was actually supplied.

Philippine production is rapidly recovering. Latest reports from the trade indicate that the deficit for 1949 will be much smaller than in 1948. In the absence of abnormal conditions, the deficit is likely to become very small in a year or two or to disappear altogether.

[11] This statement is based partly on the fact that the principal full-duty countries had previously arranged to sell the greater part of their output to third countries.

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