UNITED STATES TARIFF COMMISSION

*Operation of the*

# TRADE AGREEMENTS PROGRAM

*13th Report*

*July 1959 - June 1960*

TC Publication 51

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UNITED STATES TARIFF COMMISSION

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# TRADE AGREEMENTS PROGRAM

*13th Report*

*July 1959–June 1960*

PREPARED IN CONFORMITY WITH SECTION 350(e)(2)
OF THE TARIFF ACT OF 1930, AS AMENDED

UNITED STATES
GOVERNMENT PRINTING OFFICE
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TC Publication 51

## UNITED STATES TARIFF COMMISSION



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# *Foreword*

This, the 13th report of the U.S. Tariff Commission on the operation of the trade agreements program, covers the period from July 1, 1959, through June 30, 1960. The 13th report has been prepared in conformity with the provisions of section 350(e)(2) of the Tariff Act of 1930, as amended, which requires the Tariff Commission to submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program.[1] Before the passage of the Trade Agreements Extension Act of 1955, various Executive orders had directed the Commission to prepare similar annual reports and to submit them to the President and to the Congress.

During the period covered by the 13th report, the Contracting Parties to the General Agreement on Tariffs and Trade (GATT) did not sponsor any multilateral tariff negotiations of the Geneva-Annecy-Torquay type. At their 14th Session in May 1959, however, they decided to hold a general tariff conference, beginning in September 1960, for the purpose of negotiating with the member states of the European Economic Community, with countries that desire to accede to the General Agreement, with contracting parties that desire to negotiate new or additional concessions, and with contracting parties that desire to renegotiate concessions in their existing schedules. During the period covered by the 13th report, the United States participated in limited trade-agreement negotiations under the General Agreement with Cuba, as a result of that country's adoption of a new customs tariff; with Belgium, Denmark, West Germany, Japan, the Netherlands, Sweden, and the United Kingdom, as a result of requests by those countries for tariff concessions to compensate them for increases in U.S. rates of duty resulting from escape-clause actions; with the United Kingdom, Belgium, and other interested contracting parties, as a result of U.S. invocation of the so-called Geneva wool-fabric reservation; and with Canada, as a result of that country's revision of the textile schedule of its tariff. The report describes these

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[1] Sec. 350(e)(1) of the Tariff Act of 1930, as amended, requires the President to submit to the Congress an annual report on the operation of the trade agreements program. In accordance with this requirement, the President on July 1, 1960, transmitted to the Congress the *Fourth Annual Report of the President of the United States on the Trade Agreements Program.* The requirements for the reports by the Tariff Commission and the President were added to sec. 350 by sec. 3(d) of the Trade Agreements Extension Act of 1955.

negotiations and, for those that were completed, analyzes the changes that they made in the schedules of concessions of the respective countries.

The 13th report also covers other important developments during 1959–60 with respect to the trade agreements program. These include the major developments relating to the general provisions and administration of the General Agreement; the actions of the United States relating to its trade agreements program; and the major commercial policy developments in countries with which the United States has trade agreements.

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*Chapter 1*

# *U.S. Trade Agreements Legislation*

## INTRODUCTION

During the period covered by this report [1] the United States conducted its trade agreements program under the provisions of the Trade Agreements Act of 1934,[2] as amended, the Trade Agreements Extension Act of 1951,[3] as amended, the Trade Agreements Extension Act of 1958,[4] Executive Order 10082 of October 5, 1949, as amended, and Executive Order 10741 of November 25, 1957.[5]

The Trade Agreements Extension Act of 1958, which was approved by the President on August 20, 1958, extends from the close of June 30, 1958, until the close of June 30, 1962, the period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930, as amended.[6]

## PROVISIONS OF THE TRADE AGREEMENTS EXTENSION ACT OF 1958

### Authority To Reduce Rates of Duty

The Trade Agreements Extension Act of 1958 provides that the President may, pursuant to trade agreements, reduce the rate of duty on an article to the lowest rate resulting from the application of any one of three alternative methods. Under the first method the rate of duty on an article

[1] The first report in this series was U.S. Tariff Commission, *Operation of the Trade Agreements Program, June 1934 to April 1948,* Rept. No. 160, 2d ser., 1949. Hereafter that report will be cited as *Operation of the Trade Agreements Program,* 1st report. The 2d, 3d, and succeeding reports of the Tariff Commission on the operation of the trade agreements program will hereafter be cited in a similar short form. Copies of the Commission's 8th, 11th, and 12th reports on the operation of the trade agreements program may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington 25, D.C. The other reports in the series are out of print.

[2] 48 Stat. 943.

[3] 65 Stat. 72.

[4] 72 Stat. 673.

[5] For the provisions and legislative history of the Trade Agreements Act of 1934 and the subsequent extension acts, see *Operation of the Trade Agreements Program* as follows: 1st report, pt. II, ch. 2; 2d report, ch. 2; 3d report, ch. 2; 4th report, ch. 2; 6th report, ch. 2; 7th report, ch. 2; 8th report, ch. 1; 9th report, ch. 1; 10th report, ch. 1; 11th report, ch. 1; and 12th report, ch. 1.

[6] Sec. 350 of the Tariff Act of 1930, as amended, is commonly referred to as the Trade Agreements Act of 1934, as amended.

may be reduced by as much as 20 percent of the rate applicable on July 1, 1958. Under the second method the rate of duty existing on July 1, 1958, may be reduced by 2 percentage points, except that no duty may be entirely removed. Under the third method any rate of duty may be reduced to 50 percent ad valorem or, for a specific or compound rate of duty, to a rate or combination of rates equivalent to 50 percent ad valorem.

Under the provisions of the extension act of 1958, the rate of duty on an article on July 1, 1958, determines which of these three methods would result in the maximum permissible reduction. Thus rates of less than 10 percent ad valorem may be reduced in greatest degree by employing the second method (reduction by 2 percentage points); and those between 10 percent and 62½ percent, by the first method (reduction by 20 percent). For rates exceeding 62½ percent the maximum permissible reduction would be accomplished by using the third method (reduction to 50 percent ad valorem, or its equivalent).[7]

In applying the second and third methods of rate reduction, in which the permissible reduction is stated in ad valorem terms, the base rate must, of course, also be stated on an ad valorem basis. The law specifies, therefore, that for specific and compound rates of duty, its provisions shall apply on the basis of the ad valorem equivalents of such rates of duty during a period determined by the President to be representative.

The Trade Agreements Extension Act of 1958 provides that, regardless of the method that is employed in reducing a rate of duty, the reduction may be effected in not more than four annual stages. Separate stages must be at least 1 year apart, and the last stage must not be later than 3 years after the first stage. In no stage may the reduction exceed 10 percent of the base rate of duty under the first method, 1 percentage point under the second method, or one-third of the total amount of the reduction under the third method.

Even though a rate of duty may have been increased after July 1, 1958 (as, for example, by termination of a bilateral trade agreement), it may be reduced to the same level as if it had not been so increased, because, under the provisions of the Trade Agreements Extension Act of 1958, the rate of duty existing on July 1, 1958, is without exception the base for determining the permissible reductions in duty. In situations of this kind the limitations on the amount of the reduction that may become effective at one time are either those set forth above or one-third of the total permissible reduction, whichever is the greater.

Unlike the 1955 extension act, which forbade the use of any of the

[7] The first and second methods would give identical results if applied to a rate of exactly 10 percent ad valorem, and the first and third methods, if applied to a rate of exactly 62½ percent ad valorem.

rate-reducing authority under the first alternative after the expiration of the period of extension of authority to enter into trade agreements, the 1958 act permits utilization of the full amount of the authority provided by any one of these alternatives to carry out any trade agreement entered into during the 4-year period ending June 30, 1962. The reductions may be put into effect at any time during that period or thereafter, except that no part of any decrease may come into effect for the first time later than June 30, 1966.

### Authority To Increase Rates of Duty

The Trade Agreements Extension Act of 1958 authorizes the President to increase by as much as 50 percent any rate of duty in effect on July 1, 1934. Under legislation in effect before the Trade Agreements Extension Act of 1958 was approved, the President had the authority to increase by as much as 50 percent any rate of duty in effect on January 1, 1945. The act also provides that a specific rate of duty existing on July 1, 1934, may be converted to its ad valorem equivalent based on the value of imports of the article concerned during the calendar year 1934, and that an ad valorem rate of duty not in excess of 50 percent above such ad valorem equivalent may be imposed on the article.

The trade agreements legislation in effect before passage of the extension act of 1958 forbade the transfer of any article from the dutiable to the free list, or vice versa. The President, therefore, had no authority to impose an import duty on an article that had been bound on the free list in a trade agreement.[8] The extension act of 1958 continued the prohibition against transferring an article from one list to the other, but authorized the President—in carrying out the escape-clause provisions of the trade agreements legislation—to impose a duty not in excess of 50 percent ad valorem on any article not otherwise subject to duty. Imposition of such a duty, of course, would be only for the time necessary to prevent or remedy serious injury or the threat thereof to the domestic industry concerned.

### Escape-Clause Provisions

The Trade Agreements Extension Act of 1958 continued the escape-clause provisions of the Trade Agreements Extension Act of 1951, as amended, but made certain changes in the escape-clause procedure.

Section 7 of the Trade Agreements Extension Act of 1951, as amended (which established a statutory escape-clause procedure), provides that the Tariff Commission, upon the request of the President, upon resolution of either House of Congress, upon resolution of either the Senate Com-

[8] The president was not prohibited, however, from imposing quantitative restrictions on imports of such an article.

mittee on Finance or the House Committee on Ways and Means, upon its own motion, or upon application by any interested party, must promptly conduct an investigation to determine whether any product on which a trade-agreement concession has been granted is, as a result, in whole or in part, of the customs treatment reflecting such concession, being imported in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products. In arriving at its findings and conclusions, the Commission is required to consider several factors expressly set forth in section 7(b) of the extension act of 1951, as amended.

Should the Commission find, as a result of its investigation, the existence or threat of serious injury as a result of increased imports, either actual or relative, due, in whole or in part, to the customs treatment reflecting the concession, it must recommend to the President, to the extent and for the time necessary to prevent or remedy such injury, the withdrawal or modification of the concession, or the suspension of the concession in whole or in part, or the establishment of an import quota.

The Commission must immediately make public its findings and recommendations to the President, including any dissenting or separate findings and recommendations, and must publish a summary thereof in the *Federal Register*. When, in the Commission's judgment, there is no sufficient reason to recommend to the President that a trade-agreement concession be modified or withdrawn, the Commission must make and publish a report stating its findings and conclusions.

The Trade Agreements Extension Act of 1958 reduced from 9 months to 6 months the period within which the Tariff Commission is to make a report in an escape-clause investigation. It also made an important change in the escape-clause procedure by providing that the Congress may override the President's rejection of a Tariff Commission recommendation for escape-clause action or any part of such recommendation. Under earlier legislation the President was merely required to report to the Congress, stating his reasons, when he did not follow the Commission's recommendation in an escape-clause case. The new law continues the requirement that the President make such a report to the Congress. It provides, however, that the Congress may, by adopting a concurrent resolution by a two-thirds vote in each House, override the President's rejection of a Tariff Commission recommendation for escape-clause action. Within 15 days after the Congress adopts such a resolution, the President is required to place the Commission's recommendation in effect.

### Peril-Point Provisions

The Trade Agreements Extension Act of 1958 continued the statutory requirements for so-called peril-point determinations in connection with

proposed trade-agreement negotiations, but made certain changes in and additions to the peril-point procedure. The peril-point provisions of the Trade Agreements Extension Act of 1951, as amended, require the President, before entering into any trade-agreement negotiation, to transmit to the Tariff Commission a list of the commodities that may be considered for concessions. The Commission is then required to make an investigation, in the course of which it must hold a public hearing, and to report its findings to the President on (1) the maximum decrease in duty, if any, that can be made on each listed commodity without causing or threatening serious injury to the domestic industry producing like or directly competitive products; or (2) the minimum increase in the duty or the additional import restrictions that may be necessary on any of the listed products to avoid serious injury to such domestic industry. The President may not conclude a trade agreement until the Commission has submitted its report to him or until the expiration of the period specified for completion by the Tariff Commission of its peril-point investigation. Should the President conclude a trade agreement that provides for greater reductions in duty than the Commission specifies in its report, or that fails to provide for the minimum increase in duty or the additional import restrictions specified, he must transmit to the Congress a copy of the trade agreement in question, identifying the articles concerned and stating his reason for not acting in accordance with the Tariff Commission's findings.

The Trade Agreements Extension Act of 1958 increased from 120 days to 6 months the period specified for the Tariff Commission to complete a peril-point investigation. The act also requires that the Commission promptly institute an escape-clause investigation with respect to any article on the President's list upon which a tariff concession has been granted, whenever the Commission finds in a peril-point investigation that an increase in duty or additional import restriction is required to avoid serious injury to the domestic industry producing like or directly competitive articles.

The extension act of 1958 further provides that in a peril-point investigation the Commission shall, to the extent practicable and without excluding other factors, ascertain for the last calendar year preceding the investigation the average invoice price at which a listed foreign article was sold for export to the United States, and the average prices at which the like or directly competitive domestic articles were sold at wholesale in the principal markets of the United States. Moreover, the Commission is required, also to the extent practicable, to estimate for each article on the President's list the maximum increase in annual imports which may occur without causing serious injury to the domestic industry producing like or directly competitive articles.

## National Security Provision

The so-called national security amendment enacted in section 7 of the Trade Agreements Extension Act of 1955 provided that whenever the Director of the Office of Defense Mobilization [9] has reason to believe that any article is being imported into the United States in such quantities as to threaten to impair the national security, he shall so advise the President. If the President agrees that there is reason for such belief, he shall cause an immediate investigation to be made to determine the facts. If, on the basis of such investigation and of findings and recommendations made in connection therewith, the President finds that the article is being imported in such quantities as to threaten to impair the national security, he shall take such action as he deems necessary to adjust imports of the article to a level that will not threaten to impair the national security.

The Trade Agreements Extension Act of 1958 continued the national security provision of the extension act of 1955, with certain changes and additions. The Director must make an investigation upon request of the head of any department or agency, or upon application of any interested party, and he may institute such an investigation upon his own motion. The second investigation by the President was eliminated, but the final decision as to the need for action was retained by the President. The scope of the provision was enlarged to include authority to restrict imports of derivatives of the articles which are the subject of a request for investigation, in addition to imports of the articles themselves. A new section added to the national security provision directs the Director of the Office of Defense and Civilian Mobilization [9] and the President, in the light of the requirements of national security and without excluding other relevant factors, to consider domestic production needed for projected national defense requirements; the capacity of domestic industries to meet such requirements; existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense; the requirements of growth of such industries and such supplies and services (including the investment, exploration, and development necessary to assure such growth); and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements.

In their administration of the national security provision, the extension act of 1958 directs the Director of ODCM and the President to recognize the close relation of the economic welfare of the Nation to the national security, and to take into consideration the impact of foreign competition on the economic welfare of individual domestic industries. It also directs

[9] Later the Office of Civil and Defense Mobilization and, effective Sept. 22, 1961, the Office of Emergency Planning.

them to consider, without excluding other factors, any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports, in determining whether such weakening of the internal economy may impair the national security.

### Other Provisions

Section 9 of the Trade Agreements Extension Act of 1958 grants the Tariff Commission broader subpena powers than those provided in earlier legislation. Under section 333 of the Tariff Act of 1930 such powers had been available to the Commission only in certain types of investigations; under the provisions of the extension act of 1958 they may be invoked "in connection with any investigation authorized by law."

Section 7 of the Trade Agreements Extension Act of 1958 established rules to govern the Congress in considering concurrent resolutions to override Presidential rejections of Tariff Commission recommendations in escape-clause cases. The Trade Agreements Extension Act of 1958 made such resolutions highly privileged, and established procedures designed to expedite their consideration by the Congress.

*Chapter 2*

# *Developments Relating to the Operation of the General Agreement on Tariffs and Trade*

## INTRODUCTION

The General Agreement on Tariffs and Trade (GATT), the most important and most comprehensive agreement that the United States has entered into under the provisions of the Trade Agreements Act, is a multilateral agreement to which the United States and 36 other countries are contracting parties.[1] The General Agreement consists of two parts: (1) The so-called general provisions, which consist of numbered articles that set forth rules for the conduct of trade between contracting parties,[2] and (2) the schedules of tariff concessions that have resulted from the various multilateral negotiations sponsored by the Contracting Parties. On June 30, 1960, the following 37 countries were contracting parties to the General Agreement: Australia, Austria, Belgium, Brazil, Burma, Canada, Ceylon, Chile, Cuba, Czechoslovakia, Denmark, the Dominican Republic, Finland, France, the Federal Republic of Germany, Ghana, Greece, Haiti, India, Indonesia, Italy, Japan, Luxembourg, the Federation of Malaya, the Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Peru, the Federation of Rhodesia and Nyasaland, Sweden, Turkey, the Union of South Africa, the United Kingdom, the United States, and Uruguay. Eight additional countries—Cambodia, Israel, Poland, Portugal, Spain, Switzerland, Tunisia, and Yugoslavia—although not contracting parties to the General Agreement on June 30, 1960, were participating in the work of the Contracting Parties under special arrangements.

At the close of the period covered by this report the General Agreement embraced the original agreement concluded by the 23 countries that negotiated at Geneva in 1947; the Annecy Protocol of 1949, under which 10 additional countries acceded to the agreement; the Torquay Protocol of 1951, under which 4 other countries acceded; and the Protocol of

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[1] For the earlier history of the General Agreement, see *Operation of the Trade Agreements Program*: 1st report, pt. II, ch. 3; 2d report, pp. 19–21; 3d report, pp. 31–32; and 5th report, pp. 23–26.

[2] The term "contracting parties," when used without initial capitals (contracting parties), refers to member countries acting individually; when used with initial capitals (Contracting Parties), it refers to the member countries acting as a group.

Terms of Accession of Japan, under which that country acceded in 1955. Indonesia, on behalf of which the Netherlands negotiated concessions at Geneva in 1947, became an independent contracting party in 1950. Ghana and Malaya became contracting parties in 1957 after they were sponsored by the United Kingdom under the provisions of article XXVI. At one time or another during the period commencing with the Geneva Conference in 1947 and ending June 30, 1960, a total of 41 countries became contracting parties to the General Agreement. Four of these countries—the Republic of China, Lebanon, Liberia, and Syria—all of which became contracting parties to the agreement as a result of negotiations at Geneva in 1947 or at Annecy in 1949, have since withdrawn from it.

Article XXV of the General Agreement provides that the Contracting Parties shall meet from time to time to further the objectives of the agreement and to resolve operational problems that may arise. Between the Geneva Conference in 1947 and June 30, 1960, the Contracting Parties met in 16 regular sessions.[3] From the time that the ad hoc Committee for Agenda and Intersessional Business—now called the Intersessional Committee—was established in 1951, it has held one or more meetings each year.

The 15th Session of the Contracting Parties, which was held in Tokyo from October 26 to November 21, 1959, was attended by representatives of all 37 contracting parties to the General Agreement, and by representatives of 6 countries—Cambodia, Israel, Poland, Switzerland, Tunisia, and Yugoslavia—that participate in the work of the Contracting Parties under special arrangements. The following 13 countries were represented by observers: Argentina, Bolivia, Ecuador, El Salvador, Laos, Lebanon, Libya, Mexico, Republic of the Philippines, Portugal, Spain, the United Arab Republic, and Venezuela. The United Nations, the International Monetary Fund, the International Labor Organization, the Organization for European Economic Cooperation, and the Council of Ministers and the Commission of the European Economic Community were also represented by observers.

The 16th Session of the Contracting Parties, which was held in Geneva from May 16 to June 4, 1960, was attended by representatives of all 37 contracting parties to the General Agreement, and by representatives of 7 countries—Cambodia, Israel, Portugal, Spain, Switzerland, Tunisia, and Yugoslavia—that participate in the work of the Contracting Parties under special arrangements. Represented by observers at the 16th Session were the following 14 countries: Argentina, Costa Rica, Ecuador, El Salvador, Guatemala, Iran, Iraq, Ireland, Mexico, Republic of the

[3] From 1948 through 1958 (except in 1948 and in 1950, when they held two regular sessions) the Contracting Parties met in one regular session each year. At their 13th Session in 1958 the Contracting Parties decided that, beginning in 1959, they would hold two regular sessions each year.

Philippines, Poland, Rumania, the United Arab Republic, and Venezuela. Also represented by observers were the following intergovernmental organizations: The United Nations, the International Monetary Fund, the International Labor Organization, the Food and Agriculture Organization, the Council of Ministers and the Commission of the European Economic Community, the Organization of American States, the Organization for European Economic Cooperation, the Council of Europe, the Customs Cooperation Council, the League of Arab States, and the United Nations Economic and Social Council.

The following discussion of the principal developments relating to the General Agreement during the period covered by this report is divided into four sections: (1) Items arising from the operation of the agreement; (2) tariffs and tariff negotiations; (3) other developments relating to the agreement; and (4) status and administration of the agreement.

## ITEMS ARISING FROM THE OPERATION OF THE GENERAL AGREEMENT

This section considers deviations from the General Agreement by contracting parties either under specific provisions for such deviations or as breaches of the rules of the agreement. These deviations are dealt with under the following four categories: (a) Deviations with respect to which interested contracting parties have complained to the Contracting Parties under the provisions of article XXIII;[4] (b) waivers of obligations that the Contracting Parties have granted under article XXV; (c) releases from obligations that the Contracting Parties have authorized under article XVIII; and (d) import restrictions that contracting parties impose for balance-of-payments reasons, under the provisions of articles XII and XVIII.[5]

### Complaints

Article XXIII of the General Agreement provides that if any contracting party considers that any benefit accruing to it under the agreement is being nullified or impaired by the action of another contracting party, it may bring the alleged impairment to the attention of the con-

[4] Unless otherwise specified, the numbers of the articles of the General Agreement as used in this chapter are those of the amended agreement. The protocol amending the preamble and pts. II and III of the agreement entered into force in part for two-thirds of the contracting parties on Oct. 7, 1957. For the General Agreement as so amended, see Contracting Parties to the General Agreement on Tariffs and Trade, *Basic Instruments and Selected Documents:* vol. III, *Text of the General Agreement, 1958,* Sales No.: GATT/1958–5, Geneva, 1958.

[5] For the texts of discussions, resolutions, and reports of the 15th and 16th Sessions, see Contracting Parties to GATT, *Basic Instruments . . .,* 8th supp., Sales No.: GATT/1960–1, Geneva, 1960, and *Basic Instruments . . .,* 9th supp., Sales No.: GATT/1961–1, Geneva, 1961.

tracting party concerned. If this action does not result in an adjustment that is satisfactory to both parties, the matter may be referred to the Contracting Parties for examination and appropriate recommendation. Matters brought before the Contracting Parties in this manner are known as complaints.

At their 15th and 16th Sessions in 1959 and 1960 the Contracting Parties considered a total of four complaints. By June 30, 1960, the close of the period covered by this report, one of these complaints had been settled.

One previously unsettled complaint—that relating to reduced freight rates on shipments of paper products to the Union of South Africa—was not discussed at either the 15th or the 16th Session. The South African complaint concerned the reduction of freight rates by certain shipping companies engaged in transporting paper products to South Africa—an action which South Africa claimed would jeopardize the country's paper-producing industry. To counteract the effect of the reduced freight rates, South Africa proposed to levy a countervailing duty equal to the difference between the "normal" freight rate and the freight rate that was actually being charged. The working group that examined the complaint at the 13th Session noted that, on the basis of the facts presented, the levying of countervailing duties by South Africa would be less restrictive of international trade than would the imposition of increased rates of duty on paper products. The Contracting Parties therefore approved the conclusion of the working group that the most practical solution was for the Contracting Parties to note that the plenary discussions had revealed a wide measure of support for South Africa's proposed action.[6] Since no interested contracting party raised the issue before the Contracting Parties at their 15th and 16th Sessions, it appears that the complaint may be considered as having been settled.

Two other complaints that had not been settled at earlier sessions of the Contracting Parties were not discussed at either the 15th or the 16th Session and thus presumably remained unsettled. One of these complaints relates to the increase by the United States of its rate of duty on imports of spring clothespins;[7] the other concerns Italian subsidization of exports of flour.[8]

***Complaint settled by June 30, 1960***

In April 1958 the Intersessional Committee considered Australia's complaint that since 1953 France had subsidized exports of wheat and flour and, by so doing, was obtaining more than an equitable share of the world trade in those products. Australia complained that the subsidy

[6] See *Operation of the Trade Agreements Program,* 12th report, pp. 13–15.
[7] See *Operation of the Trade Agreements Program,* 11th report, pp. 30–31.
[8] See *Operation of the Trade Agreements Program,* 12th report, p. 18.

was contrary to the provisions of article XVI of the General Agreement, had distorted the pattern of trade in wheat and flour, and might—if continued—force Australia out of its traditional export markets for these commodities.

Since France had indicated during bilateral consultations with Australia that it did not intend to modify the subsidy, the Intersessional Committee referred the complaint to a panel. After hearing statements by France and Australia, the panel adjourned so that the two contracting parties might resume bilateral consultations. These consultations having proved unsuccessful, the panel reconvened, examined the Australian complaint, and submitted a report to the Contracting Parties.

On November 21, 1958, during their 13th Session, the Contracting Parties discussed the panel's report. The panel found that, as a result of French subsidies on wheat and flour, Australia had suffered direct damage and that France, contrary to the provisions of article XVI, had obtained more than an equitable share of the world trade in those products. To remedy this situation, the panel recommended that in granting future subsidies France provide that they operate in such a manner as not to adversely affect the markets for wheat and flour. To this end the panel suggested that France consult with Australia before French exporters enter into new contracts for the exportation of wheat and flour. The Contracting Parties adopted the panel's report and approved its recommendation.

On April 20, 1960, France and Australia reached an agreement based on the panel's recommendation of November 21, 1958. As a result of this agreement the Contracting Parties considered the complaint settled.[9]

***Complaints not settled by June 30, 1960***

*French stamp tax on imports (art. II).*—The French stamp tax on imports, which is levied in addition to the regular import duties, was originally designed to defray the costs of clearing imported commodities through the customs. Article II of the General Agreement authorizes such taxes by providing that a contracting party shall not be prevented from imposing fees or other charges on imports commensurate with the cost of services it renders in connection therewith. At the Ninth Session of the Contracting Parties in 1954–55 the United States complained that France had increased its stamp tax beyond the allowable limits.[10] The matter was temporarily resolved, however, when the French representative noted that France had not increased the tax—and did not intend to

[9] France and Australia formally notified the Contracting Parties of their agreement on Oct. 24, 1960, after the close of the period covered by this report.

[10] In March 1954 France increased the stamp tax from 1.7 percent to 2 percent ad valorem.

increase it—beyond the point necessary to meet the cost of services rendered, as authorized by the General Agreement.[11]

In August 1955, despite this expressed intention, France increased the tax from 2 percent to 3 percent, with the specific provision that the increase in the proceeds from it be applied to the budget for agricultural family allowances. The United States immediately complained to the Contracting Parties that France's action was inconsistent with its obligations under the General Agreement. When the matter came before the Contracting Parties at their 10th Session, the French representative agreed that the increase in the tax was contrary to the provisions of the General Agreement. But, he stated, France had decided on the increase under exceptional circumstances; it had been necessary to finance his country's program of agricultural family allowances, and there seemed to be no possibility of financing such allowances by normal methods. He assured the Contracting Parties, however, that his Government would adjust the tax as soon as possible.

The U.S. complaint appeared on the agenda of the Contracting Parties at each of the four succeeding sessions but, despite the hope expressed by the French representative that the stamp tax would be reduced, the French Government found it necessary to retain the tax at the level of 3 percent.[12] At the 16th Session, in May–June 1960, the French representative stated that he felt reasonably certain that his Government would reduce the tax to 2 percent, effective January 1, 1961, and that the complaint would therefore be settled.

*Italian measures in favor of domestic production of ships' plates (art. III).*—Shortly before the Contracting Parties convened for their 13th Session, Austria submitted a complaint concerning Italian measures designed to stimulate domestic production of ships' plates. Austria stated that, pursuant to a law of July 17, 1954 (the Tambroni law), Italy grants tax remission and other tax benefits to the Italian shipbuilding industry when it uses domestically produced ships' plates, but does not extend those benefits to the industry when it employs imported ships' plates. According to Austria, Austrian exports of ships' plates to Italy declined steadily after the law of July 17, 1954, became effective. The Austrian Government stated that its attempts to consult with Italy on this matter had been unsuccessful, and it therefore requested that the problem be placed on the agenda for the 13th Session.

On November 3, 1958, during their 13th Session, the Contracting Parties examined the Austrian complaint, and heard statements by the representatives of Austria and Italy.[13] The Austrian delegate stated

[11] See *Operation of the Trade Agreements Program*, 8th report, pp. 34–36.
[12] See *Operation of the Trade Agreements Program*, 12th report, pp. 15–16.
[13] See *Operation of the Trade Agreements Program*, 12th report, pp. 17–18.

that Austria and Italy had recently entered into consultations and therefore requested that the complaint be retained on the agenda. The Chairman of the Contracting Parties agreed to this procedure and invited the interested contracting parties to report the results of their consultations.

On November 20, 1958, the Austrian and Italian delegates informed the Contracting Parties that agreement had been reached on the matter and requested that it be dropped from the agenda. On April 20, 1959, however, Austria notified the Contracting Parties of a new development. According to Austria, the Italian Government had on January 26, 1959, submitted to the Parliament a draft law which modified the Tambroni law so as to extend the benefits being granted to domestic producers of ships' plates and other articles to producers of such articles in the other five member countries of the European Coal and Steel Community.[14] In the light of this new development, Austria proposed further consultations with Italy and requested that the matter be placed on the agenda for the 14th Session. During the 14th Session Italy stated that it would consult with Austria, but suggested that the consultations be held at a later date. The Contracting Parties did not, therefore, discuss the matter during their 14th Session.

Although the complaint was on their agenda for the 15th Session, the Contracting Parties deferred action on it pending consultations that were scheduled to take place between Italy and Austria. During the 16th Session the Contracting Parties examined the Austrian complaint and heard statements by the representatives of Austria and Italy. The two countries decided not to seek any formal consideration of the issue by the Contracting Parties at that time, but to continue their bilateral discussions. The Contracting Parties therefore placed the matter on the agenda for their 17th Session.

*U.S. restrictions on imports of dairy products (art. XI).*—In 1951, at the Sixth Session of the Contracting Parties, Denmark and the Netherlands, supported by Australia, Canada, France, Italy, New Zealand, and Norway, complained that U.S. restrictions on imports of certain dairy products were contrary to the provisions of article XI of the General Agreement, which require the general elimination of quantitative restrictions on imports. These countries maintained that the restrictions in question impaired concessions that the United States had granted under the General Agreement. They therefore contended that the complaining parties were entitled—in retaliation—to request the suspension of certain of their obligations to the United States, as provided for in article XXIII. Accordingly, at their Seventh Session in 1952, the Contracting Parties authorized the Netherlands to limit imports of wheat flour from the

[14] The member countries of the European Coal and Steel Community are Belgium, France, West Germany, Italy, Luxembourg, and the Netherlands.

United States to 60,000 metric tons a year. At their Eighth Session in 1953 the Contracting Parties requested the United States to report annually on the import restrictions in question.[15]

In 1959, during the 15th Session of the Contracting Parties, the United States submitted the fifth annual report on its import restrictions on dairy products.[16] In its report to the Contracting Parties the working party designated to examine the U.S. report concurred in general with the opinion expressed by the delegate from New Zealand, who urged the United States to adopt appropriate legislation to remedy the situation regarding dairy products—a situation which he regarded as serious. After hearing the report of the working party, the Contracting Parties adopted the U.S. report. Although it was clear from the remarks made by various members of the working party that the complaint against U.S. restrictions on imports of dairy products could not be regarded as settled, the Netherlands did not seek—as it had sought each year from 1952 to 1959—permission from the Contracting Parties to limit imports of wheat flour into the Netherlands from the United States. The representative of the Netherlands explained that his country was pleased with the U.S. action in undertaking an investigation to determine whether the United States could increase its import quotas for Edam and Gouda cheeses and for Italian-type cheeses.[17] According to him, the Netherlands felt that this action could reasonably give rise to the expectation that the United States would further eliminate its restrictions on imports of dairy products.

### Reports on Existing Waivers of Obligations

The drafters of the General Agreement on Tariffs and Trade envisioned the possibility that a contracting party might—because of special or exceptional circumstances—find that it could not comply with certain obligations imposed on it by the provisions of the agreement. The Contracting Parties, therefore, were authorized to grant such a contracting party a waiver of, or a release from, its obligations to the extent necessary to enable it to overcome particular problems. Articles VI:6,

[15] See *Operation of the Trade Agreements Program*: 5th report, pp. 32–33; 6th report, pp. 43–45; 7th report, pp. 59–61; 8th report, pp. 59–62; 9th report, pp. 16–17; 10th report, p. 18; and 11th report, pp. 29–30.

[16] The report that the United States submitted at the 15th Session on its restrictions on imports of dairy products was incorporated in the more comprehensive report that the United States submitted to the Contracting Parties under the terms of the sec. 22 waiver granted to the United States in 1955. That report is discussed in the following section of this chapter.

[17] On May 11, 1960, after a report and recommendation by the U.S. Tariff Commission, the President of the United States increased the annual quota for imports of Edam and Gouda cheeses from 4,600,200 pounds to 9,200,400 pounds, and that for Italian-type cheeses from 9,200,100 pounds to 11,500,100 pounds. The new quotas became effective on July 1, 1960. See ch. 3 of this report.

XVIII:16 and 22, XXIV:10, and XXV:5 contain the main provisions for waivers of, or releases from, obligations imposed on contracting parties. In general, the first three articles mentioned above apply to specific circumstances. Article VI:6, for example, provides a remedy for dumping in one country by a second country that causes or threatens material injury to an industry in the territory of a third contracting party which exports to the country where the merchandise is being dumped; article XVIII:16 and 22 involves problems relating to underdeveloped countries;[18] and article XXIV:10 deals with problems connected with the formation of customs unions and free-trade areas. Article XXV:5, on the other hand, relates to situations not covered by the other three articles mentioned above. This article provides that, in exceptional circumstances not elsewhere provided for, the Contracting Parties may waive an obligation imposed on a contracting party by the General Agreement. Unlike the other waiver provisions mentioned above, article XXV:5 provides that the Contracting Parties may waive any obligation imposed on a contracting party, if they believe there is sufficient reason therefor. Any such waiver of an obligation must, unless the Contracting Parties decide otherwise, be approved by a two-thirds majority of the votes cast, and such majority must comprise more than half of the contracting parties. This exception to the general voting procedure, which provides for a two-thirds majority vote of the representatives present and voting, emphasizes the importance that the Contracting Parties attach to the waiving—under the exceptional circumstances provision—of an obligation imposed on a contracting party by the General Agreement.

At their 15th and 16th Sessions the Contracting Parties did not consider any new requests for waivers of obligations. Reports submitted by contracting parties on actions they had taken under certain existing waivers of obligations are discussed below.

The waiver that the Contracting Parties granted to Brazil at the 12th Session, which was designed to permit that country to make effective its new customs tariff, as well as certain waivers granted to New Zealand and to the Federation of Rhodesia and Nyasaland, are discussed in the section of this chapter on tariffs and tariff negotiations. At their 15th and 16th Sessions the Contracting Parties did not discuss the existing waivers relating to Chile's import charges or to Luxembourg's quantitative restrictions on imports.[19]

***Australia's special customs treatment of products from Papua and New Guinea (sixth annual report) (art. I)***

At their Eighth Session in 1953 the Contracting Parties granted Aus-

[18] Releases under the provisions of art. XVIII are discussed separately in this chapter.

[19] For a discussion of these waivers, see *Operation of the Trade Agreements Program*, 12th report, pp. 19–20 and 28–29.

tralia a waiver of its most-favored-nation obligations under article I of the General Agreement, to permit Australia to assist in the economic development of the territories of Papua and New Guinea.[20] The waiver permitted Australia to accord duty-free treatment to primary products imported from the specified territories without regard to the rates of duty on like products imported from any other contracting party, as long as the primary products were not subject to Australian concessions under the General Agreement. At the 10th Session of the Contracting Parties Australia requested and was granted a supplementary waiver which permits it to accord duty-free treatment to imports of certain forest products from Papua and New Guinea, whether or not these products are subject to Australian tariff concessions under the General Agreement. At the 11th Session the original waiver was expanded to include not only primary products but also products that are substantially derived from primary products.[21] To clarify their original intention and to prevent misinterpretation, the Contracting Parties—at their 14th Session—further amended the terms of the waiver they had granted to Australia by agreeing that the waiver does not preclude increases in most-favored-nation rates where only the primage duty is bound in the Australian schedule.[22]

From the time that the Contracting Parties granted the waiver to Australia in 1953 until 1958, Australia had, under the terms of the waiver, notified the Contracting Parties that it would admit the following commodities free of duty when imported from the territories of Papua and New Guinea: Plywood, up to a quantity not exceeding 12 million square feet ($\frac{3}{16}$-inch basis) a year; certain forestry products; and passion-fruit juice. It had also notified the Contracting Parties that, under the terms of the waiver, it was increasing the most-favored-nation rates of duty on imports of passion-fruit juice, passion-fruit pulp, unshelled peanuts, peanut kernels, veneers, and unshelled almonds.

In its sixth annual report on actions taken under the waiver, submitted to the Contracting Parties at their 15th Session in 1959, Australia stated that it had taken no actions under the waiver during the preceding year. At the 15th Session the Australian delegate proposed to the Contracting Parties that his Government submit its next report on actions under the waiver at the 18th Session, to be held in May–June 1961. The Contracting Parties took note of the Australian report and accepted the proposal for deferring the next report on actions taken under the waiver.

***Belgian quantitative restrictions on imports (fourth annual report) (art. XI)***

On May 16, 1955, Belgium requested that, for a period of 7 years,

[20] See *Operation of the Trade Agreements Program,* 7th report, pp. 32–34.

[21] See *Operation of the Trade Agreements Program,* 10th report, pp. 22–23.

[22] As employed by Australia, a "primage" duty is a basic, or primary, ad valorem revenue duty.

the Contracting Parties waive its commitments under article XI of the General Agreement to permit the retention of a number of quantitative restrictions that it had imposed on agricultural products when it was free to resort to such restrictions for balance-of-payments reasons. Article XI requires the general elimination of quantitative restrictions on imports from or exports to other contracting parties. Belgium's request for the waiver pointed out that because of conditions prevailing in the Belgian agricultural system—primarily the high cost of agricultural production—removal of the restrictions would subject Belgian agriculture to damaging competition from the Netherlands.

Rather than grant Belgium a waiver for a 7-year period under the provisions of article XXV:5, the Contracting Parties—exercising their power under that article to define certain categories of exceptional circumstances for the waiver of obligations, as well as to prescribe the necessary criteria for their application—granted Belgium a waiver for 5 years under the terms of the so-called hard-core decision of 1955.[23] Because of the exceptional circumstances surrounding the harmonization of the agricultural policies of the Benelux countries, the Contracting Parties extended until December 31, 1962, their concurrence with respect to those restrictions that Belgium would not be able to eliminate under the terms of the hard-core decision.

At the 15th Session of the Contracting Parties, Belgium submitted the fourth annual report on its quantitative restrictions.[24] After examining the report, certain contracting parties expressed serious concern over Belgium's lack of progress in removing its quantitative restrictions. They proposed that—rather than submit the annual report to a working party for examination—Belgium be asked to reexamine its position under the waiver and report to the Contracting Parties before March 1960 on any action it proposed to take in compliance with the terms of the waiver. The Contracting Parties agreed to this procedure and deferred action on the matter until their 16th Session.

At the 16th Session the Belgian delegate announced that his Government had taken steps to liberalize its restrictions on imports of 12 commodities covered by the waiver. While a number of contracting parties

[23] See *Operation of the Trade Agreements Program*, 8th report, p. 47. The "hard-core" decision recognizes that for some countries persistent balance-of-payments difficulties make quantitative restrictions necessary over a period of years, and that the sudden elimination of such restrictions would make adjustments difficult. The decision, therefore, provides for a temporary waiver of the obligation to eliminate quantitative restrictions where their immediate removal would result in serious injury to a domestic industry or a branch of agriculture. The decision provides, however, that no such waiver shall be granted for a period of more than 5 years.

[24] For discussion of Belgium's first, second, and third annual reports under the waiver, see *Operation of the Trade Agreements Program*: 10th report, pp. 23–24; 11th report, pp. 34–35; and 12th report, pp. 23–24.

welcomed this evidence of action by Belgium, many contracting parties, including the United States, expressed concern over the fact that Belgium, in removing quantitative restrictions on those products, had found it necessary to impose import duties or increase existing import duties on the same products. It was pointed out that the question of Belgium's ability to remove the restrictions in question assumed particular importance because the Belgian waiver was, in effect, a "test case" of the hard-core decision. After discussion, the Contracting Parties urged interested contracting parties to consult with Belgium pending another formal discussion of the matter at the 17th Session.

***Franco-German treaty on the Saar (second annual reports) (art. I)***

On October 27, 1956, representatives of France and the Federal Republic of Germany signed a treaty applying to the Saar the basic law of the Federal Republic, and providing for special treatment of the trade between the Saar and France and between the Saar and West Germany. The treaty entered into force on January 1, 1957. Because some of the provisions of the treaty conflicted with the provisions of article I of the General Agreement, France and West Germany on May 24, 1957, requested that, as provided in article XXV:5, the Contracting Parties waive the obligations of the two countries under the provisions of article I, insofar as was necessary for them to implement the provisions of the treaty.

The Saar treaty provided for a transitional period which would end not later than December 31, 1959. During this period the monetary and customs union that existed between France and the Saar before 1957 was to continue in effect. The treaty also provided, during the transitional period, for special treatment by West Germany of products originating in the Saar, and for duty-free importation into the Saar of capital equipment originating in West Germany. A waiver by the Contracting Parties of the provisions of article I was necessary because provisions of the Saar treaty involved discrimination against imports from third countries. Waiver of the provisions of article I was also necessary for administration of the Saar's definitive economic system. This necessity resulted from the treaty provision that, after the transitional period, there would be duty-free importation into the Saar of products originating in the franc area, and duty-free entry into France of products originating in the Saar. The volume of trade in both directions was to be limited by quotas based on the trade between France and the Saar in 1955.

After examining the matter at their 12th Session, the Contracting Parties granted France and West Germany a waiver of their obligations under article I of the General Agreement. The waiver provided that both France and West Germany should submit an annual report on their

actions under the terms of the waiver and that they should consult with the Contracting Parties when requested to do so.

At the 15th Session of the Contracting Parties in 1959, France and West Germany submitted their second annual reports of actions taken under the waiver.[25] Both Governments reported that the transitional period contemplated by the Saar treaty had ended on July 5, 1959. At that time the Saar became part of the West German customs and currency area, and the definitive annual tariff quotas for trade between the Saar and the French franc area became effective. The French delegate stated that the provisions of the Saar treaty had been implemented without difficulty, and that the emergence of the European Economic Community had facilitated their implementation. The Contracting Parties took note of the two reports.

***West German import restrictions (first annual report) (art. XI)***

After completing the article XII consultations that took place before the opening of the 12th Session of the Contracting Parties in 1957, and after considering the findings of the International Monetary Fund, the working party on balance-of-payments restrictions agreed that the Federal Republic of Germany was no longer entitled to impose quantitative restrictions on imports for balance-of-payments reasons.

At the Intersessional Committee meeting in April 1958 the West German delegate stated that certain of West Germany's remaining import restrictions were required by his country's marketing laws and, moreover, were consistent with West Germany's reservation to the Torquay Protocol and the March 7, 1955, decision of the Contracting Parties. As for the remaining restrictions that are not required by the marketing laws, West Germany did not wish to apply for a waiver because the current conditions that required such restrictions might prove to be permanent in nature. The West German representative stated that his country was prepared to consult with contracting parties which felt that continued application of the West German restrictions had impaired benefits to them under the General Agreement.

The Intersessional Committee expressed disappointment that West Germany had confirmed its intention to maintain the import restrictions in question, since they are no longer authorized under article XII of the General Agreement. The Committee felt that the issue involved a fundamental principle, disregard of which would undermine the very structure of the General Agreement and threaten the multilateral trading system that the Contracting Parties had endeavored to establish. The Committee felt, therefore, that if West Germany found that immediate removal of the remaining import restrictions presented insurmountable difficulties

[25] For a discussion of the first annual reports submitted by France and West Germany, see *Operation of the Trade Agreements Program,* 12th report, pp. 27–28.

it should apply for a hard-core waiver or for a waiver under article XXV. After further discussion at the 13th Session, during which the Contracting Parties urged West Germany to utilize agreed procedures to reconcile its position with the provisions of the General Agreement, West Germany agreed to apply for a waiver and to consult with interested contracting parties before the 14th Session.[26]

At their 14th Session the Contracting Parties noted that West Germany had consulted with 12 other contracting parties, but that no agreement had been reached on the presentation of the results of such consultations to the Contracting Parties. The Contracting Parties therefore established a working party to examine the problem.

When it submitted its report to the Contracting Parties, the working party also submitted a draft decision for their consideration. The draft decision specifically referred to groups of commodities listed in five annexes (annexes A through E) to the West German program for liberalizing import restrictions. The working party noted West Germany's intent to undertake additional liberalization with respect to commodities listed in annex A; to eliminate—within a period of 5 years—restrictions on commodities listed in annex C (as well as to submit annual reports on its progress in eliminating those restrictions); and to insure that actions taken under the country's marketing laws are consistent with the provisions of the General Agreement. The draft decision also specified that restrictions maintained on commodities listed in annex D be administered without restriction as to quantity and source of supply, that restrictions on commodities listed in annex E be kept under review in order to liberalize as many of the products as possible, and that restrictions on items listed in annex B be eliminated as soon as possible. Besides containing the above-mentioned provisions, the draft decision provided that West Germany should consult annually with the Contracting Parties on its application of the decision and the progress achieved in eliminating the restrictions on the commodities listed in annexes A through E.

After discussing the matter in a plenary session, the Contracting Parties approved the draft decision for a period of 3 years and declared that interested contracting parties still had recourse to article XXIII. Approval of the decision provides West Germany with a hard-core waiver of its obligations under article XI for those items listed in annexes B, D, and E, but does not affect the application of provisions relating to nondiscrimination under article XII. Under the terms of the waiver West Germany must submit an annual report of its actions in removing the quantitative import restrictions covered by the waiver.

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[26] The discussions took place at the 13th Session of the Contracting Parties. For a discussion of the granting of the West German waiver, see *Operation of the Trade Agreements Program*, 12th report, pp. 41–45.

At the 15th Session of the Contracting Parties, West Germany submitted its first annual report on actions taken under the terms of the waiver. The report indicated that West Germany had liberalized some products included in annexes A, C, and D. In addition to the report, the West German Government announced that interested parties in the Federal Republic had been informed of the overall program of liberalization on July 11, 1959, at which time the decision of May 30, 1959, together with the annexed lists of products, had been published in the *Bundesanzeiger*.[27] Before this date, the same publication had announced the liberalization of certain products in annex A as well as the de facto liberalization of products subject to marketing laws, as provided for in annex D to the decision. The liberalization decree, which became effective on July 1, 1959, was amended on August 4, 1959. Furthermore, the West German Government had conducted bilateral consultations with interested contracting parties in an effort to make individual adjustment of the quotas not yet liberalized.

At the 16th Session of the Contracting Parties the West German delegate stated that his country had been unable to complete its consultations with Japan, but that some products had been liberalized since the last session of the Contracting Parties. A number of contracting parties, including the United States, expressed satisfaction with the measures taken by West Germany, but urged that country to do everything possible to establish a firm date for full and formal liberalization of the still unliberalized products. The Contracting Parties noted the views of the various contracting parties and stated that West Germany would report at the 17th Session on the progress it had made in removing or relaxing restrictions on products listed in annexes A through E.

***Italy's preferential customs treatment of Libyan products (seventh annual reports) (art. I)***

At their Sixth Session in 1951 the Contracting Parties granted Italy a waiver of its most-favored-nation obligations under article I of the General Agreement. The waiver, which permitted Italy to accord duty-free entry to a specified list of products of which Libya is Italy's principal foreign supplier, was intended to facilitate the development of Libya's economy during that country's transition to an independent status. At their Seventh Session in 1952 the Contracting Parties requested Italy to submit an annual report on the development of Italian-Libyan trade, and requested Libya to submit an annual report on Libyan economic development.[28] The waiver, originally granted for a period of 1 year, was subse-

[27] West Germany's equivalent of the U.S. *Federal Register*.

[28] See *Operation of the Trade Agreements Program*: 7th report, pp. 31–32; 8th report, pp. 33–34; 9th report, p. 25; 10th report, pp. 27–28; 11th report, pp. 38–39; and 12th report, p. 28.

quently extended to December 31, 1958. At the 13th Session in 1958 it was further extended to December 31, 1961, subject to certain changes in the schedule of products covered by it.

The seventh annual reports of Italy and Libya, submitted to the Contracting Parties at their 15th Session, noted a slight increase in Italian imports from Libya in 1958, compared with 1957, as well as some further improvement of the Libyan economy, including a notable increase in Libya's exports of edible ground nuts. During the discussion of the reports the Libyan delegate pointed out that his Government had adopted legislation designed to assist existing domestic industries and to encourage the development of new industries. The Contracting Parties took note of the two reports.

***Nicaragua–El Salvador free-trade area (eighth annual report) (arts. I and XIII)***

At their Sixth Session in 1951 the Contracting Parties approved a waiver relating to the Nicaragua–El Salvador free-trade area. The waiver, which was granted under the provisions of article XXIV:10, freed Nicaragua from its most-favored-nation obligations with respect to the products covered in its treaty with El Salvador, which became effective August 21, 1951. Under the terms of the treaty, each country agreed to accord reciprocal duty-free treatment to specified products originating in the other country.

In its eighth annual report to the Contracting Parties, which it submitted at the 15th Session,[29] Nicaragua noted that—as in previous years—both Nicaragua and El Salvador were satisfied with the development of trade under the free-trade treaty. The report noted that the increase in trade that had taken place in 1957 had been reversed and that the trade in both directions had declined slightly in 1958.

***Peruvian import charges (first annual report) (arts. I and II)***

In June 1958 the Intersessional Committee met to discuss a communication from Peru concerning its proposed action to arrest a serious decline in its foreign-exchange reserves resulting from balance-of-payments difficulties. Peru stated that it had already consulted the International Monetary Fund about the problem and that the IMF had recommended certain corrective measures. Some of these measures, in Peru's opinion, implied the need to increase import duties rather than to restrict expenditures for nonessential products by imposing quantitative restrictions on imports. Peru considered that the revenue derived from import duties was necessary to insure the success of the country's stabilization program. Moreover, Peru did not desire to impose quantitative restrictions because

[29] Inasmuch as El Salvador is not a contracting party to the General Agreement, only Nicaragua is obliged to report to the Contracting Parties on developments under the waiver. For the origin of the waiver, see *Operation of the Trade Agreements Program*, 6th report, p. 50.

experience had shown that, once imposed, they are difficult to eliminate. Peru believed, therefore, that it would be preferable to increase its customs revenue and that this could best be accomplished by imposing supplementary charges on all imports.

Inasmuch as Peru's need for increased customs revenue had arisen from the country's balance-of-payments difficulties, Peru believed that the Contracting Parties should consider its problem under the provisions of article XII. The Intersessional Committee agreed on Peru's need to solve its problem, but could not agree that recourse to article XII would be appropriate for the particular remedial action Peru proposed to take. Article XII deals with the application and intensification of import restrictions to alleviate balance-of-payments difficulties. It does not, however, provide for unilateral increase of bound rates of duty, and more than half of Peru's imports—in terms of value—consist of commodities for which the rates of duty have been bound. Having been unable to resolve the problem, the Intersessional Committee recommended that the Contracting Parties consider the matter at their 13th Session. Subsequently, Peru informed the Contracting Parties that on June 9, 1958, it had placed in effect its supplementary charges on imports, and that later in June it had increased those charges.

In discussing the problem at their 13th Session in 1958, the Contracting Parties agreed that the fundamental issue was whether the General Agreement is flexible enough to permit a country with serious balance-of-payments difficulties to overcome them by adopting measures other than import restrictions when immediate corrective action is necessary. On the one hand, article XII permits a contracting party to impose quantitative restrictions on imports to safeguard its balance-of-payments position. Peru, however, did not desire to employ such restrictions, because once imposed they would be difficult to eliminate; moreover, recourse to such restrictions would be contrary to Peru's traditional liberal trade-and-exchange policy. On the other hand, Peru desired to impose import surcharges. Although imposition of such surcharges would be less restrictive of international trade than would the imposition of quantitative restrictions, such action did not appear to be compatible with the provisions of the General Agreement. To resolve this conflict between article XII and the spirit of the General Agreement, the Contracting Parties—at the suggestion of the United States—established a working party to examine the problem.

The working party reported its findings to the Contracting Parties during their 13th Session. According to the working party, the import surcharges levied by Peru were not permitted by article XII; moreover, they were inconsistent with article II insofar as they applied to commodities on which Peru had negotiated concessions with other contracting

parties. The working party also found that Peru's action was contrary to the provisions of article I because the surcharges did not apply to imports from neighboring countries with which Peru had bilateral agreements, and thus resulted in a widening of the margin of preference. The working party found, however, that Peru's action was less restrictive of international trade than the measures provided for under article XII. It, therefore, recommended that the Contracting Parties act under the provisions of article XXV:5, and that they waive the provisions of articles I and II to the extent necessary to permit Peru to continue its emergency measures until its adverse balance-of-payments position shall have been corrected.

The Contracting Parties approved the decision of the working party and granted Peru a waiver of its obligations under articles I and II. The waiver is to remain in effect until June 8, 1961, or until such time as Peru eliminates its import surcharges—whichever occurs first. Should Peru impose the quantitative restrictions on imports which it had originally declined to impose, the waiver would immediately cease to be operative. The Contracting Parties also requested Peru to submit an annual report of its actions under the waiver.

At the 15th Session of the Contracting Parties, Peru submitted its first annual report on actions taken under the terms of the waiver. In the discussion that preceded acceptance of Peru's report by the Contracting Parties, representatives of some contracting parties expressed the view that Peru, while applying the surcharges on certain imported products as permitted under the waiver, had also—contrary to the provisions of the waiver—widened the margins of preference that it accorded to certain commodities imported from Chile and certain other countries. Late in the 15th Session, after receiving information from the International Monetary Fund that confirmed Peru's serious situation with respect to gold and exchange reserves,[30] the Contracting Parties agreed to adopt a draft decision amending their decision of November 21, 1958. The amendment, by temporarily waiving Peru's obligations under article I:4 and article II:1, broadened the terms of the original waiver so as to permit Peru to increase certain margins of preference.

***United Kingdom obligations with respect to products entered free of duty from Commonwealth countries (sixth annual report) (art. I)***

At their Eighth Session in 1953 the Contracting Parties granted the United Kingdom a waiver of its obligations under the provisions of article I of the General Agreement, which forbid increases in margins of preference. The waiver permitted the United Kingdom to alter margins of

[30] Art. XV of the General Agreement provides for consultations between the International Monetary Fund and the Contracting Parties in cases involving balance-of-payments difficulties.

preference accorded to Commonwealth countries by increasing the rates of duty on imports of unbound commodities from non-Commonwealth countries without imposing comparable duties on those commodities when imported from Commonwealth countries. The waiver applied only to commodities for which no concessions were in effect under the General Agreement at the time it was granted.

At the Ninth Session of the Contracting Parties in 1954–55 the United Kingdom requested, and was granted, an amendment to the waiver permitting it to increase margins of preference on commodities for which concessions were in effect under the General Agreement at the time the waiver was approved, but which had subsequently been removed or modified in a manner consistent with the agreement. In requesting an amendment to the waiver, the United Kingdom stated—as it had in requesting the original waiver—that it desired to accord itself greater protection only in a limited number of instances where the need for tariff protection had been demonstrated, and that it did not intend to use the waiver to divert trade to the Commonwealth.[31]

At the 15th Session the United Kingdom submitted its sixth annual report of actions taken under the margin-of-preference waiver. The report noted that since submission of its fifth report the United Kingdom had invoked the waiver with respect to changes in the most-favored-nation rates of duty on certain cut flowers, ornamental pottery, and lighter flints.

The report stated that, after notifying the Contracting Parties that it intended to increase the duties on cut flowers and ornamental pottery, the United Kingdom had received requests from the Netherlands and West Germany for consultations on cut flowers and on ornamental pottery, respectively. In both instances the United Kingdom had been unable to agree that the grounds on which the requests were based satisfied the terms of paragraph (b)(ii) of the waiver procedures. Moreover, the United Kingdom had found it necessary to increase its duty on cut flowers without submitting the question to the Contracting Parties for determination.[32] The question regarding ornamental pottery, however, had been resolved by a panel of experts appointed by the Intersessional Committee in March 1959. West Germany had accepted the findings of the panel, and the United Kingdom had increased the duty on April 25, 1959. Both the Netherlands and West Germany had reserved the right to consult with the United Kingdom under the terms of article XXII if a substantial diversion of trade resulted from the increases in the rates of duty.

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[31] See *Operation of the Trade Agreements Program:* 7th report, pp. 27–30; 8th report, pp. 30–32.

[32] The duty on certain cut flowers was increased on Mar. 17, 1959. For a discussion of the action taken by the United Kingdom on cut flowers, see *Operation of the Trade Agreements Program,* 12th report, p. 31.

In a plenary session of the Contracting Parties, at which they took note of the United Kingdom's report and the report of the panel of experts, the United Kingdom representative stated that Austria had requested consultations on the United Kingdom's proposal to increase the rate of duty on lighter flints. The request was subsequently withdrawn, and the duty on lighter flints was increased on July 27, 1959.

***Special problems of the dependent overseas territories of the United Kingdom (fifth annual report) (art. I)***

During the Ninth Session in 1954–55 the United Kingdom submitted to the Contracting Parties a proposed amendment to the General Agreement that would broaden the scope of action by a contracting party in assisting the economic development of its dependent territories. The United Kingdom desired such an amendment because it believed its social and political responsibilities to dependent territories could not otherwise be fulfilled under the provisions of the General Agreement. Because of the broad scope of the proposed amendment, and because its adoption would be tantamount to recognizing as permanent a problem they regarded as transitional, the Contracting Parties did not favor the proposed amendment. They decided, instead, to waive certain of the United Kingdom's obligations under the General Agreement, in order to permit the United Kingdom to accord its dependent overseas territories treatment commensurate with its responsibilities as it recognized them.[33]

In submitting its fifth annual report under the waiver at the 15th Session, the United Kingdom stated that it had taken no action under the terms of the waiver since it submitted its fourth report at the 13th Session. The Contracting Parties took note of the United Kingdom's report.

***U.S. restrictions on imports of agricultural products (fifth annual report) (arts. II and XI)***

With certain exceptions, article XI of the General Agreement prohibits a contracting party from imposing nontariff restrictions on its imports from other contracting parties. Article II forbids imposition of a rate of duty in excess of the rate of duty set forth in the appropriate schedule of concessions. These articles of the General Agreement have been particularly significant to the United States because it maintains governmental programs with respect to several agricultural products and, on various occasions, has found it necessary to restrict imports of such products and to apply increased rates of duty on them to effectively carry out its domestic programs. Use of the agricultural exception by

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[33] For a more detailed discussion of the United Kingdom's dependent overseas territories waiver, see *Operation of the Trade Agreements Program,* 8th report, pp. 76–78. For the text of the waiver, see Contracting Parties to GATT, *Basic Instruments . . .,* 3d supp., *Decisions, Resolutions, Reports, etc., of the Ninth Session,* Sales No.: GATT/1955–2, Geneva, 1955, pp. 21–25.

the United States has been of considerable concern to those countries that export agricultural products to the United States, and to those that have granted tariff concessions to the United States in return for concessions granted to them on agricultural products.

U.S. programs for agricultural products have taken various forms. Some of the programs have been designed to control production; some, to assist in the orderly marketing of agricultural commodities for domestic consumption and export; some, to provide for the disposal of surplus commodities; and some, to establish quality and grading standards. The principal objective of such programs has been to stabilize prices at levels that would provide a fair return to producers, consistent with the interests of consumers.

To the extent that these programs have had the effect of maintaining domestic price levels for agricultural products above the duty-paid, laid-down prices of comparable imports, they have tended to stimulate a greater quantity of imports than would have prevailed had there been no domestic programs. Such stimulation of imports tends to increase the cost of relevant programs and to interfere with the realization of their objectives. To provide for such contingencies, section 22 of the U.S. Agricultural Adjustment Act, as amended, authorizes the President to restrict the importation of commodities by imposing either fees or quotas (within specified limits) if such importation tends to render ineffective or materially interfere with the agricultural commodity programs of the U.S. Department of Agriculture. Section 22, as amended by the Trade Agreements Extension Act of 1951, specifically provides that no trade agreement or other international agreement heretofore or hereafter entered into by the United States shall be applied in a manner inconsistent with the requirements of section 22.

To resolve the difference between its domestic legislation and the provisions of the General Agreement, the United States—at the Ninth Session of the Contracting Parties in 1954–55—requested a waiver of its commitments under articles II and XI of the General Agreement, insofar as such commitments might be regarded as inconsistent with action it is required to take under section 22.[34] Besides establishing certain rules of procedure and certain conditions as to consultation, the waiver, which the Contracting Parties granted to the United States at the Ninth Session, requires the United States to report annually on any actions it takes thereunder.

At the 15th Session of the Contracting Parties the United States submitted its fifth annual report of actions taken under the waiver. The report, which covered the period 1958–59, presented an explanation of U.S. actions with respect to each of the commodities that were subject

[34] See *Operation of the Trade Agreements Program,* 8th report, pp. 43–47.

to import control during that period. The U.S. report indicated that import controls under section 22 were currently in effect for seven products or groups of products. The report also noted that, since the preparation of the fourth annual report, actions taken under the provisions of section 22 had included two investigations by the U.S. Tariff Commission to determine the need for a reduction in the quota on long-staple cotton and the extension—on a continuing basis—of the quota on rye which automatically terminated on June 30, 1959. The Tariff Commission recommended that the continuing quota on long-staple cotton not be modified, and recommended that the quota on rye be continued, but at a level approximately one-half as high as that which prevailed during the period 1954–59.[35]

The U.S. report to the Contracting Parties also described positive steps that the United States had taken to reduce surpluses of certain agricultural commodities. The actions included efforts to curtail production as well as to increase consumption; continuation of the soil-bank program, acreage allotments, and marketing programs; reduction of price-support levels for most commodities still under control; and a request for new legislation designed to give the Secretary of Agriculture more flexibility in establishing price-support levels.

After discussing the U.S. report, the Contracting Parties referred it to the working party on agricultural waivers for further examination. The working party noted that the United States had reduced price-support levels for many agricultural commodities still subject to control. As in earlier years, however, the working party expressed concern that, for certain commodities, little progress had been made toward achieving a better balance between supply and demand. The working party also expressed concern because the United States had not—since its last report—relaxed any of its import controls on agricultural products, and stressed the need for greater progress in relaxing or removing such restrictions.[36] The Contracting Parties adopted the report of the working party.

### Releases From Obligations

Article XVIII of the General Agreement brings together those provisions of the General Agreement that are most directly related to the

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[35] On Sept. 22, 1959, the President accepted the Tariff Commission's recommendation with respect to long-staple cotton. The President did not accept the Commission's recommendation with respect to rye; by proclamation he continued the quota on rye, rye flour, and rye meal at the level which had prevailed during the year ending June 30, 1959.

[36] Effective July 1, 1960, after the end of the period covered in its fifth report, the United States increased the quotas on imports of Edam, Gouda, and Italian-type cheeses. See the section of this chapter on the complaint with respect to U.S. restrictions on imports of dairy products.

problems of underdeveloped countries. In general, the article makes available to underdeveloped countries special, additional facilities for promoting the establishment of new industries and for protecting their external financial positions. Paragraph 4 of article XVIII distinguishes between two types of underdeveloped countries: (1) Countries the economies of which can support only low standards of living and are in the early stages of development, and (2) countries the economies of which are in the process of development, but which do not come within the scope of the category first named.

Sections A, B, and C of article XVIII specify conditions under which underdeveloped countries in the first category named above shall be free to deviate temporarily from other provisions of the General Agreement. Section D provides that—under specified conditions—underdeveloped countries in the second category named above may be released from obligations imposed upon them by certain provisions of the agreement. In general, section A provides—for underdeveloped countries in the first category named above—a special procedure for modifying or withdrawing tariff concessions granted under the General Agreement that is not generally available to other contracting parties, and section B authorizes underdeveloped countries in the first category to employ—under less stringent conditions than those that apply to more developed countries—import restrictions for balance-of-payments reasons.[37]

Section C of article XVIII provides that an underdeveloped country in the first category named above may be released from obligations imposed on it by the General Agreement to the extent necessary to permit it to apply proposed measures which have been approved by the Contracting Parties. A release thus obtained permits such a contracting party—in the interest of attaining certain specified objectives—to take an action which otherwise would constitute a violation of the provisions of the General Agreement.

Specifically, section C of article XVIII provides that, if a contracting party in the first category named above finds that governmental assistance is necessary to establish a particular industry, but that no measure consistent with the other provisions of the General Agreement

[37] Sec. A of art. XVIII permits a contracting party to withdraw or modify a concession in its schedule of the General Agreement after negotiating with contracting parties that have a substantial interest therein. Sec. B authorizes underdeveloped countries to employ import restrictions for balance-of-payments reasons, provided such restrictions do not exceed the restrictions necessary to protect their monetary reserves. The provisions for the use of such restrictions require all underdeveloped countries that apply new restrictions or intensify existing restrictions to consult with the Contracting Parties. Import restrictions imposed for balance-of-payments purposes under art. XVIII are discussed in the section of this chapter on the examination of quantitative import restrictions imposed for balance-of-payments reasons.

is practicable to attain that objective, it must notify the Contracting Parties of the measure it proposes to take. If, within 30 days of such notification, the Contracting Parties do not request consultation, the contracting party shall be free to deviate from the relevant provisions of other articles of the General Agreement to the extent necessary to apply the proposed measure. Should the Contracting Parties request the contracting party to consult with them concerning its proposed action, and should the Contracting Parties concur in the proposed measure, the contracting party shall be released from its obligations under relevant provisions of other articles of the General Agreement to the extent necessary to permit it to apply the proposed measure. Section C further provides that if the Contracting Parties do not concur in the proposed measure within 90 days after notification, the contracting party concerned shall nevertheless be free to introduce the proposed measure after informing the Contracting Parties.

Section D of article XVIII provides that if a contracting party in the second category named above—that is, a contracting party whose economy is in the process of development—finds that governmental assistance is necessary to establish a particular industry, but that no measure consistent with the other provisions of the General Agreement is practicable to achieve that objective, it may apply to the Contracting Parties for approval of the measure it proposes to introduce. If the Contracting Parties concur in the proposed measure, the contracting party concerned shall be released from its obligations under the relevant provisions of other articles of the General Agreement to the extent necessary to permit it to apply the proposed measure.

Both sections C and D provide that if the proposed measure concerns a product which is the subject of a concession in the General Agreement, the contracting party concerned shall consult with the contracting party with which the concession was initially negotiated, and with any other contracting party determined by the Contracting Parties to have a substantial interest therein. If the Contracting Parties agree that there is no other practicable measure to achieve the objective, and if they are satisfied that (1) agreement has been reached or (2) the contracting party concerned has made all reasonable efforts to reach an agreement, the contracting party concerned shall be released from its obligations to the extent necessary to permit it to apply the proposed measure.

*Second annual review of actions taken under article XVIII*

Paragraph 6 of article XVIII provides that the Contracting Parties shall review annually all actions taken by contracting parties under the provisions of sections C and D of the revised article XVIII.

During the first 6 months of 1958 Ceylon became the first country to

obtain a release under the provisions of the revised article XVIII.[38] The panel that was appointed to conduct the second annual review of actions taken under article XVIII noted that, since adoption of the revised article XVIII, Ceylon had been granted releases with respect to cotton sarongs, sarees, and cotton textiles; plywood tea chests; crown corks; bicycle tires; toothbrushes; electric light bulbs; nails and screws; and aluminum hollowware. The report of the panel covered only the first two commodity groups mentioned. Actions with respect to the remaining commodities were not examined because Ceylon had taken no action with respect to the releases granted on four commodities, and releases had been granted for the remaining two commodities as recently as October 1959.[39] The panel reported that production in Ceylon of plywood tea chests, and of cotton sarongs, sarees, and cotton textiles had increased since the first annual review of actions taken under article XVIII, but that there was no immediate prospect that Ceylon could replace its present restrictions on those commodities with alternative measures available to it under other provisions of the General Agreement. At their 16th Session the Contracting Parties approved the panel's report on the second annual review of actions taken under article XVIII.

***Releases from obligations considered at the 15th and 16th Sessions***

At the 15th Session Ceylon notified the Contracting Parties that, in the interest of establishing domestic industries, it proposed to take additional actions under section C of article XVIII. The proposed actions related to the importation of wood screws, aluminum hollowware, aluminum foil, asbestos cement products, and certain textile products. With respect to certain textile products Ceylon proposed to modify the release granted to it on those products at the 13th Session of the Contracting Parties.[40]

At their 15th Session the Contracting Parties referred Ceylon's proposals to a panel on article XVIII. The panel recommended that Ceylon be granted releases on wood screws and aluminum hollowware, but that action on releases for the remaining products be deferred until the 16th Session. The delegate from Ceylon agreed with this procedure and stated that, at the 16th Session, Ceylon would furnish additional data to support its request for releases on the remaining commodities.

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[38] Ceylon, Cuba, Haiti, and India had previously been granted releases under the original art. XVIII.

[39] The two commodities for which releases were granted in October 1959 were nails and screws, and aluminum hollowware.

[40] The release granted by the Contracting Parties at the 13th Session had replaced all previous releases granted to Ceylon on textile products. The modification proposed by Ceylon would, among other things, involve modification of its Industrial Products Act to permit imports to be regulated by quantity or value instead of by quantity only.

During the 15th Session the panel also examined Cuba's notification under article XVIII regarding the continued application of import restrictions on henequen and sisal. The panel noted that Cuba had been granted two 5-year releases with respect to these products, the last of which expired on August 10, 1959. The panel felt that because Cuba's original release had been granted under the provisions of the old article XVIII, a new release under section C of the revised article XVIII would require careful consideration. Since the 15th Session was close to adjournment, the panel recommended that the matter be deferred until the 16th Session.

At the 16th Session of the Contracting Parties a reconstituted panel on article XVIII examined Ceylon's request for releases on aluminum foil, asbestos cement products, and certain textile products.[41] The panel recommended that Ceylon be granted releases on the first two products, but that action be deferred on the release relating to certain textile products. The panel further recommended that the Contracting Parties authorize the Intersessional Committee to grant Ceylon a release for certain textile products after Ceylon had consulted with interested contracting parties. The panel also examined Cuba's request for a release on henequen and sisal, and recommended that the original release for these products, which expired on August 10, 1959, be extended until August 10, 1962, with the understanding that any protection required by the domestic industry after that date be provided by measures consistent with the provisions of the General Agreement. The Contracting Parties adopted the panel's reports with respect to both Ceylon and Cuba, and approved its recommendations.[42]

### Examination of Quantitative Import Restrictions Imposed for Balance-of-Payments Reasons (Arts. XI–XV, XVIII)

The widespread use of quantitative restrictions on imports for balance-of-payments reasons in the period immediately after World War II resulted from the fact that many countries—in their attempts to restore their war-damaged industries, to resume the development of their economic resources, or to achieve full and productive employment—experienced a high level of demand for imports that involved a threat to their monetary reserves. The General Agreement on Tariffs and Trade, which was drafted shortly after the end of the war, reflected the desire of the Contracting Parties to make special provision—in the agreement itself—for countries that faced balance-of-payments problems during the post-

[41] This same panel conducted the second annual review of actions taken under art. XVIII.

[42] The Contracting Parties granted Ceylon a 2-year release on aluminum foil, rather than the requested 3-year release, and a 3-year release on asbestos cement products.

war period of adjustment. As the trading nations of the world have—especially in the last several years—moved into a period of recovery, the Contracting Parties have strongly urged individual contracting parties to eliminate quantitative restrictions on imports when maintenance of such restrictions is no longer justified for balance-of-payments reasons.

Articles XI through XV and section B of article XVIII of the General Agreement deal with the problem of the use of quantitative restrictions on imports in trade between contracting parties. Article XI prohibits a contracting party from imposing nontariff restrictions—such as quotas, licensing systems, or other quantitative control measures—on its imports from other contracting parties. Article XII, however, permits certain exceptions to this general rule for those contracting parties that are faced with balance-of-payments difficulties. Article XVIII:B contains similar, but less stringent, provisions for underdeveloped countries. Article XIII sets forth the general rule that any quantitative restriction applied pursuant to the provisions of the agreement must be nondiscriminatory in nature, but article XIV permits certain exceptions to this rule for countries faced with balance-of-payments difficulties that are regarded as transitional in character. Article XV recognizes the interrelationship—in balance-of-payments problems—of quantitative restrictions on imports that are within the jurisdiction of the Contracting Parties and of exchange problems that are within the jurisdiction of the International Monetary Fund. It does this by providing for consultation between the two organizations and by delineating the sphere of action of each in balance-of-payments problems.

In essence, these six articles of the General Agreement impose on contracting parties an obligation to forego the use of quantitative restrictions on imports except in the most compelling circumstances. Although articles XII, XIV, and XVIII:B make it clear that balance-of-payments difficulties may justify the resort to quantitative restrictions, these articles also provide that a contracting party that resorts to such restrictions must, in certain instances, consult with the Contracting Parties regarding the nature and extent of the restrictions and their justification. Furthermore, article XIV requires the Contracting Parties to prepare an annual report on the discriminatory application of the quantitative restrictions permitted by the provisions of that article.

Contracting parties that wish to apply discriminatory import restrictions may do so under the provisions of paragraph 1(b) of article XIV of the General Agreement. Under the provisions of this paragraph, deviation from the provisions of article XIII is permitted to the same extent that it is permitted under article XIV of the Articles of Agreement of the International Monetary Fund or under paragraph 6 of article XV of the General Agreement, both of which provide for special exchange

agreements. If, on March 1, 1948, a contracting party was applying—for balance-of-payments reasons—import restrictions that were not in accord with rules of nondiscrimination as set forth in article XIII, and would not have been permitted in their entirety under paragraph 1(b) of article XIV, it could nevertheless elect to continue to apply such restrictions under paragraph 1(c) of that article, and could adapt such deviations to changing circumstances. If a contracting party did not wish to be bound by the provisions of paragraphs 1(b) and 1(c) of article XIV of the General Agreement, and had signed the Protocol of Provisional Application before July 1, 1948, it could elect to be governed by the provisions of annex J to the General Agreement.

By electing to be bound by the aforementioned provisions of annex J, a contracting party has the advantage of being permitted to apply restrictions that are not permitted to members of the International Monetary Fund under paragraph 1(b) of article XIV of the General Agreement. In return, it must consult annually with the Contracting Parties on these discriminatory restrictions, and must adhere to the limiting requirements of annex J. By deciding to apply certain of its restrictions under the provisions of paragraph 1(c), a contracting party has the advantage of being permitted to do so, when it is not permitted to do so under paragraph 1(b) as a member of the International Monetary Fund. In return it must consult annually with the Contracting Parties on those restrictions that exceed the limits set forth in paragraph 1(b). This latter alternative is useful to those contracting parties that wish to distinguish between the discriminatory restrictions they apply for balance-of-payments reasons under the International Monetary Fund Agreement —on which they may not wish to consult with the Contracting Parties— and those they apply for other reasons. These contracting parties, therefore, have an advantage in that only the discriminatory restrictions they apply under paragraph 1(c) of article XIV of the General Agreement become the subject of the required consultations.

***Consultations under articles XII and XVIII:B***

Articles XII and XVIII:B of the General Agreement provide for consultations under varying circumstances with respect to quantitative restrictions that contracting parties apply for balance-of-payments purposes under the provisions of those articles. Two major circumstances may give rise to such consultations. First, a contracting party is required to consult with the Contracting Parties when it applies new restrictions or intensifies existing restrictions. Second, all contracting parties that apply import restrictions under article XII must—beginning in 1959—consult annually with the Contracting Parties; if the restrictions are being applied under article XVIII:B, the contracting parties applying them must—beginning in 1960—consult every 2 years. In either instance

the consultations are to cover the nature of the country's balance-of-payments difficulties, possible alternative corrective measures, and the effect of the particular country's restrictions on the economies of other contracting parties.

During their 13th Session in 1958 the Contracting Parties, following the recommendations of the working party on balance-of-payments restrictions, appointed a committee on balance-of-payments restrictions to carry out the consultations scheduled for 1959. The Contracting Parties also agreed that the consultations would be held in three rounds, during each of which several contracting parties would consult.

The first round of consultations—those with France, New Zealand, the Union of South Africa, and the United Kingdom—was held during the 14th Session of the Contracting Parties in May 1959.[43] Later in the session the Contracting Parties approved the reports on the consultations with those four countries.

At the 15th Session of the Contracting Parties in October–November 1959 the committee on balance-of-payments restrictions submitted reports to the Contracting Parties on the consultations under article XII with Australia, Austria, Finland, Denmark, Japan, Norway, the Federation of Rhodesia and Nyasaland, and Sweden. The committee felt that it would not be appropriate to hold consultations with Italy under article XII, but did submit a short report relating to that country's position with respect to balance-of-payments import restrictions. The Italian representative stated that his country had eliminated most of its import restrictions and that it would report to the Contracting Parties on the remaining restrictions at a later session. The Contracting Parties adopted the reports and suggested that the report on Italy be postponed until a later session.

At the 16th Session of the Contracting Parties, held during May–June 1960, the committee on balance-of-payments restrictions submitted reports on the first consultations under the provisions of article XVIII:B—those with Greece and India. The consultation with Malaya, scheduled for May 1960, was canceled because that country no longer maintained restrictions under the exceptions provided in article XVIII:B. Late in the 16th Session a number of delegations, including that of the United States, stated that their countries were considering a request to consult with Italy under article XII concerning that country's remaining quantitative restrictions on imports. At the 16th Session the committee on balance-of-payments restrictions also submitted reports on four more consultations under article XII—those with Austria, Brazil, Uruguay, and the Union of South Africa. No consultation was held with the United

[43] In February 1959 the Netherlands eliminated all the quantitative restrictions that it maintained for balance-of-payments purposes, thereby obviating the need for consultation.

Kingdom because that country had notified the Contracting Parties that it had eliminated its import restrictions to such an extent that it no longer needed to resort to the provisions of article XII. The Contracting Parties adopted the reports submitted by the committee on balance-of-payments restrictions under the provisions of articles XII and XVIII:B.

*Consultations under article XIV*

Article XIV of the General Agreement provides for exceptions to the rule of nondiscrimination in the imposition and administration of quantitative restrictions on imports. Paragraph 1(g) of that article requires contracting parties that maintain such discriminatory restrictions to consult annually with the Contracting Parties if the restrictions are being applied pursuant to the provisions of paragraph 1(c) of article XIV or pursuant to the provisions of annex J. Such consultations concentrate on the technical details of the restrictions, such as their discriminatory effects.

At the 15th Session of the Contracting Parties in 1959 the committee on balance-of-payments restrictions reported that it had held consultations under article XIV:1(g) with a number of contracting parties. The committee's formal reports on its consultations with Australia and the Federation of Rhodesia and Nyasaland noted that both of those contracting parties had taken important steps to eliminate discriminatory restrictions. Both countries, however, still maintained some residual restrictions—Australia under article XIV:1(b) and (c) and the Federation of Rhodesia and Nyasaland under the provisions of annex J. The committee also noted that a number of other contracting parties had taken steps to remove import restrictions that they maintained for balance-of-payments reasons, or had made such restrictions less discriminatory. Among these contracting parties were Denmark, Finland, France, Ghana, India, Italy, Japan, the Federation of Malaya, the Netherlands, New Zealand, Norway, Sweden, and the United Kingdom.

*Tenth annual report on discriminatory application of quantitative import restrictions (art. XIV)*

Paragraph 1(g) of article XIV requires contracting parties that are applying discriminatory quantitative restrictions under paragraph 1(c) of article XIV or annex J to consult annually with the Contracting Parties. Besides these consultations, which must be initiated by the contracting parties, paragraph 1(g) of article XIV requires the Contracting Parties to report annually on these same discriminatory quantitative restrictions and, in addition, on those being applied pursuant to the provisions of paragraph 1(b) of article XIV.

The draft of the tenth annual report on the discriminatory application of quantitative import restrictions was submitted by the Secretariat to

the Contracting Parties at their 15th Session during October–November 1959. The report indicated that 19 contracting parties were applying import restrictions for balance-of-payments reasons with some degree of discrimination, as permitted under article XIV or annex J.[44] The report noted that, because of the move toward external convertibility at the end of 1958 by countries in Europe and elsewhere, the consultations in 1959 had assumed special importance. The report concluded that many countries were working seriously toward the elimination of discriminatory practices in the application of import restrictions they maintain for balance-of-payments reasons.

Later in their 15th Session the Contracting Parties referred the draft report to the committee on balance-of-payments restrictions for examination and completion. In the final report, which the Contracting Parties accepted, they took note of the October 23, 1959, decision of the International Monetary Fund pertaining to discriminatory restrictions employed for balance-of-payments reasons. They also reaffirmed that the elimination of discrimination applied under article XIV is a vital step toward the achievement of the objectives of the General Agreement and the expansion of international trade, and stated that there was a consensus that the remaining discrimination applied under article XIV should quickly be eliminated.

***Extension of the hard-core decision of March 5, 1955***

In their so-called hard-core decision of March 5, 1955, the Contracting Parties decided that when a contracting party was no longer entitled to maintain quantitative import restrictions to safeguard its balance-of-payments position it could request the Contracting Parties to grant it a temporary waiver from its obligation to immediately eliminate such restrictions. The decision provided that the Contracting Parties might approve the continuation by a contracting party of such restrictions to the extent necessary to enable it to overcome the transitional problems involved in eliminating them. Under the decision, application of such restrictions could be continued for a maximum of 5 years. The decision stipulated, however, that requests for continued application of restrictions must be submitted to the Contracting Parties not later than December 31, 1957.

At the 12th Session in 1957 Austria proposed that the deadline for applications under the provisions of the hard-core decision be extended.

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[44] The 19 countries were Australia, Austria, Brazil, Burma, Chile, Denmark, Finland, France, Greece, India, Japan, New Zealand, Norway, Sweden, Uruguay, Ghana, the Federation of Malaya, the Federation of Rhodesia and Nyasaland, and the United Kingdom. The last four countries mentioned applied their controls under annex J; the others maintained import restrictions under art. XIV, par. 1(b), par. 1(c), or both 1(b) and 1(c).

According to the representatives of Austria and other contracting parties, some contracting parties were still applying restrictions for balance-of-payments reasons and would not be obligated to eliminate them for some time after the deadline provided in the hard-core decision. If the deadline in the hard-core decision was not extended, these countries would not be able to avail themselves of the transitional provision for continued application of restrictions.

After discussing the problem, the Contracting Parties decided to extend until December 31, 1958, the deadline for requests for the continued application of quantitative restrictions for transitional reasons.[45] At their 13th Session in 1958 the Contracting Parties further extended the deadline for a period of 1 year—until December 31, 1959. At their 15th Session in October–November 1959 the Contracting Parties again extended the deadline an additional year—until December 31, 1960—and agreed to review the problem again during 1960.

*Preparations for consultations during 1960*

Toward the end of the 15th Session of the Contracting Parties in October–November 1959 the committee on balance-of-payments restrictions submitted its report on plans for the consultations scheduled to be held during 1960 with countries that maintain quantitative restrictions on imports for balance-of-payments reasons. In its report the committee proposed the continuance of most of the procedures that had been employed for the consultations held in 1959. Because of the large number of contracting parties that still maintained import restrictions for balance-of-payments reasons, the committee recommended a full-scale schedule of consultations during 1960. Consultations were scheduled with 12 contracting parties under the provisions of article XII:4(b), with 9 contracting parties under the provisions of article XVIII:12(b), and with 6 contracting parties under the provisions of article XIV:1(g).

## REGIONAL ECONOMIC ARRANGEMENTS

Article XXIV of the General Agreement permits contracting parties, under specified conditions, to enter into either a customs union or a free-trade area with one another or with countries not parties to the agreement. A customs union is defined by article XXIV of the General Agreement as the substitution of a single customs territory for two or more such territories so that duties and other trade restrictions (with specified exceptions) are eliminated with respect to substantially all the trade between the constituent territories of the union, or at least with respect to substantially all the trade originating in such territories, and that substantially the same duties and other regulations of com-

[45] The decision to extend the time limit was approved by the majority vote specified in art. XXV:5(i).

merce are applied by each of the members of the union to the trade of territories not included in the union. A free-trade area, on the other hand, is defined as a group of two or more customs territories in which the duties and other restrictive regulations of commerce are (with specified exceptions) eliminated on substantially all the trade between the constituent territories in products originating in such territories. Since a fundamental aim of the General Agreement on Tariffs and Trade has always been the liberalization of international trade, the Contracting Parties are empowered—under the provisions of paragraph 10 of article XXIV—to approve by a two-thirds majority proposals which do not fully comply with the requirements of paragraphs 5 through 9 of article XXIV, provided such proposals lead to the formation of a customs union or free-trade area in the sense of article XXIV.

Customs unions and free-trade areas represent two different approaches to the problem of integrating the trade and commercial policies of groups of countries. The two approaches are alike in that they aim to abolish tariffs and other barriers to trade between the participating countries. The primary difference between the two is that countries participating in a customs union maintain, or plan to eventually maintain, a common tariff and common external quantitative trade restrictions vis-a-vis all outside countries, whereas the participants in a free-trade area retain their own freedom with respect to the level of their external tariffs and with respect to the use of external quantitative trade restrictions.

During the period covered by this report the Contracting Parties took actions with respect to four customs unions or free-trade areas—the European Economic Community or Common Market, the European Free Trade Association, the Latin American free-trade area, and the Nicaragua–El Salvador free-trade area.[46] Nicaragua's seventh annual report on the operation of the Nicaragua–El Salvador free-trade area has been discussed in an earlier section of this chapter. The actions of the Contracting Parties with respect to the other three regional arrangements mentioned above are discussed below.[47]

### European Economic Community

In June 1955, with a view to more closely integrating their economies, the six members of the European Coal and Steel Community—Belgium, France, West Germany, Italy, Luxembourg, and the Netherlands—

[46] On Sept. 5, 1959, France and Tunisia abrogated the Franco–Tunisian Customs Union, which was established on June 3, 1955, and replaced it with a Franco–Tunisian trade agreement, which entered into force on Oct. 1, 1959. For details of the Franco–Tunisian Customs Union, see *Operation of the Trade Agreements Program*: 10th report, pp. 43–44; 12th report, p. 50.

[47] For a detailed discussion of the historical development of these three regional arrangements, see *Operation of the Trade Agreements Program*, 12th report, pp. 134–166.

agreed to study the possibility of creating a customs union, to be known as the European Common Market, as well as a European community for the exploitation of atomic energy (Euratom). The efforts of these countries culminated in the signing of treaties for the Common Market and Euratom in Rome on March 25, 1957.

In November 1956, at their 11th Session, the Contracting Parties discussed the problems associated with the creation of the Common Market. At that time some contracting parties expressed concern that, without proper regulation, the common external tariff of the Common Market might become more protective than were the former tariffs of its individual members. The Contracting Parties noted that the six contracting parties concerned were prepared to submit the Common Market Treaty to them for consideration before its ratification, in accordance with the procedures set forth in article XXIV of the General Agreement. The Contracting Parties therefore directed the Intersessional Committee to follow the developments with respect to the Common Market closely and to report on them at the 12th Session.

Because of the rapid progress that the six countries of the European Economic Community had made in drafting and signing the Common Market Treaty, the Intersessional Committee, meeting in April 1957, established a procedure whereby individual contracting parties might submit questions concerning the treaty to the member countries of the Common Market. As a result of these questions, and the answers thereto, the Intersessional Committee submitted a report to the Contracting Parties on some of the issues involved and made some procedural suggestions for further examination of the treaty.

Early in their 12th Session the Contracting Parties extended the authority of the Intersessional Committee to examine the Common Market Treaty with special reference to its relationship to the General Agreement, the problems likely to arise in its application, and the promotion of effective cooperation between the Common Market countries and the non-Common Market contracting parties to the General Agreement. At the ministerial meetings held later in the session, the ministerial representatives gave preliminary consideration to the relationship between the European Economic Community and the General Agreement. Following this consideration the Contracting Parties established a working party to examine this relationship and report its findings to the Intersessional Committee. The working party in turn established four subcommittees to consider the following subjects relating to the Common Market Treaty: (1) Arrangements provided in the treaty with respect to tariffs; (2) the use of quantitative restrictions; (3) the trade in agricultural products; and (4) the association of overseas territories with the Common Market.

Because of the lack of time at the 12th Session, the subcommittees reached no definite conclusions on the treaty. For this and other reasons, the working party recommended to the Contracting Parties that the treaty be further considered by the Intersessional Committee. It also recommended that, for the purpose of examining the treaty between the 12th and 13th Sessions, the Intersessional Committee be composed of representatives from all the contracting parties. At their 12th Session the Contracting Parties adopted the recommendations of the working party.

The Common Market Treaty became effective on January 1, 1958; and at its next meeting, in April 1958, the Intersessional Committee continued its examination of the provisions of the treaty. So that it might consider the proposed procedures for the European Economic Community's tariff negotiations with other contracting parties, provided for under article XXIV:6 of the General Agreement, the Committee asked the Community to provide it—before July 1, 1959—with a copy of the Community's common external tariff and certain other related information. After discussing matters such as the common external tariff, quantitative restrictions, the agricultural provisions, and the association of overseas territories, the Committee concluded that it was more important to give immediate attention to the specific and practical problems involved in the creation of the Common Market than to questions concerning the compatibility of the Common Market Treaty with article XXIV of the General Agreement. The Committee also concluded that the procedures set forth in article XXII, which provide for joint consultations by contracting parties, were appropriate for dealing with questions concerning the association of overseas territories with the Common Market. The Committee noted the statement of the European Economic Community that formation of its agricultural policy would require several years, and suggested that the Community continue to keep the Contracting Parties informed of its progress in developing such a policy.

At the 13th Session of the Contracting Parties in 1958 the contracting parties generally agreed with the Intersessional Committee's conclusion that it would be preferable to defer judgment on the compatibility of the Common Market Treaty with article XXIV of the General Agreement and that specific problems should be dealt with under the consultation provisions of article XXII as they might arise. To that end, the Contracting Parties approved the Intersessional Committee's recommendation on procedures for consultations under article XXII.

Pursuant to these procedures the Contracting Parties held consultations during the 13th and 14th Sessions on the effect of association of overseas territories with the European Economic Community on the trade in bananas, cocoa, coffee, sugar, tea, and tobacco. During the 14th Session,

Australia advised the Contracting Parties that it had requested the member states of the European Economic Community to consult with respect to the trade in lead, zinc, and aluminum. The request was made in order to permit representatives of non-Common Market countries to express their views before the Common Market established its common tariff on lead and zinc ores and concentrates.

At their 14th Session the Contracting Parties agreed that should the European Economic Community submit a report in accordance with the provisions of article XXIV:7 of the General Agreement, the Contracting Parties would place the matter on the agenda for their next session. If the Common Market should not submit such a report, other contracting parties would have the privilege of requesting that the matter be included on the agenda. In order to give all interested contracting parties full opportunity to exercise this privilege, the Contracting Parties agreed to inform them in advance whether or not the Common Market planned to submit a report.

At the 15th Session of the Contracting Parties, held in October–November 1959, the representative of the Common Market stated that although the European Economic Community was not at that time required to submit a report under the provisions of article XXIV:7, the Common Market wished to provide—on its own initiative—a statement of its accomplishments since January 1, 1959. The representative noted the various duty reductions and quota changes that are provided for in the treaty and those that were implemented when the treaty entered into force. He also stated that the Common Market intended to move toward a position of freer trade; to maintain trade with third countries at the highest possible level without discrimination; and to increase the trade in agricultural products within the community. Various individual contracting parties expressed their desire to have the remarks of the Common Market representative published and circulated. The Contracting Parties agreed with this procedure, and the remarks were circulated late in the 15th Session.

At the 16th Session, in May–June 1960, the representative of the European Economic Community provided the Contracting Parties with a second statement, which covered the activities of the Common Market since the 15th Session. Among the important developments during that period, he stated, were the Community's progress in establishing a common agricultural policy and the Community's continuing efforts to solve the problems relating to underdeveloped countries. According to him, the Commission of the European Economic Community had submitted its completed proposals relating to a common agricultural policy to the Community's Economic and Social Committee and to its Council. The Economic and Social Committee had then prepared a document that

defined its position with respect to the proposals and had transmitted it to the Commission of the European Economic Community in May 1960. The proposals had then been discussed in the European Parliamentary Assembly. The Council of Ministers of the Community, meeting on May 12, 1960, had adopted the following schedule for considering the proposals: The first proposals were to be submitted by June 1960, and the first general discussion was to be concluded by July 1960. An ad hoc committee was then to be established to prepare the Council's decisions, and was to submit its first report before October 15, 1960.

The Contracting Parties discussed the matters mentioned by the representative of the European Economic Community during plenary sessions. Most of the individual contracting parties were encouraged by the progress of the Common Market, but many felt that the Common Market Treaty should again be placed on the agenda for discussion at the 17th Session. Some contracting parties expressed their continued concern about such matters as the trade of the Common Market with overseas territories, the trade of the Common Market with underdeveloped countries, and the level of the European Economic Community's common external tariff. The Contracting Parties noted the questions raised by individual contracting parties and agreed that the Common Market Treaty should be placed on the agenda for discussion at the 17th Session. They also agreed that if the Commission of the European Economic Community were to continue its policy of submitting statements on its recent achievements at sessions of the Contracting Parties, such statements should be published and distributed in advance to all interested contracting parties.

### European Free Trade Association

By June 1956 a movement was underway within the Organization for European Economic Cooperation (OEEC) to form an association embracing not only the members of the European Common Market, but also members of OEEC that were not included in the Common Market. The OEEC decided that such an association should take the form of a European free-trade area, within which the six-member Common Market would function as a single member.

At the April 1957 meeting of the Intersessional Committee the Deputy Secretary General of OEEC informed the Committee that on February 13, 1957, the Council of Ministers of OEEC had decided to begin negotiations to establish a free-trade area. At their 12th Session the Contracting Parties directed the Intersessional Committee to keep informed on the free-trade-area negotiations, to act on behalf of the Contracting Parties at such negotiations, and to report to the Contracting Parties at their 13th Session in October 1958.

At its April 1958 meeting the Intersessional Committee was informed that negotiations for the proposed free-trade area were being conducted at the ministerial level by an intergovernmental committee, which had been established by an OEEC resolution of October 17, 1957. Since the negotiations for the proposed free-trade area were far from complete, the Intersessional Committee could not be supplied at that time with any definitive information. The Contracting Parties were similarly informed at their 13th Session in October 1958. They were informed, however, that OEEC would report to them any further developments concerning the negotiations for a free-trade area.

The ministerial-level OEEC intergovernmental committee for negotiating a free-trade area, which was under the chairmanship of Mr. Reginald Maudling, of the United Kingdom, met during the period November 1957–December 1958. While the committee was able to agree on less important questions, it became clear as the discussions progressed that there were irreconcilable differences between France's desire for a common external tariff and the United Kingdom's preference for individual external tariff arrangements. In December 1958 the negotiations collapsed. The prolonged negotiations of the Maudling committee, however, had drawn together certain of the non-Common Market countries—the United Kingdom, Norway, Sweden, Denmark, Switzerland, and Austria —and the possibility of establishing some kind of alternative free-trade arrangement, in the event of failure to reach a broad agreement among all OEEC countries, had been discussed for some time. What finally emerged was the concept of a free-trade association embracing the six countries mentioned above, which had become known as the "Outer Six." With the subsequent addition of Portugal, the group became known as the "Outer Seven."

On March 18, 1959, experts from the Outer Seven met in Stockholm to examine the possibility of joining the seven countries in a limited free-trade association. On June 1, 1959, officials of the seven countries again met in Stockholm and drafted, for consideration by their governments, a plan for a European Free Trade Association (EFTA). The agreement was drafted by senior officials of the participating countries on September 19 and 20, 1959, and representatives of the participating countries initialed it on November 20, 1959.[48]

On November 11, 1959, the Swedish representative at the 15th Session of the Contracting Parties—speaking on behalf of the seven EFTA countries at a meeting of the heads of delegations—stated that the seven countries would submit the text of the EFTA convention to the Contracting Parties promptly after it had been signed. The Swedish representative suggested that, since little time remained before the initial tariff reduc-

[48] For the provisions of the EFTA convention, see ch. 4.

tions comtemplated by EFTA were to take effect, the Contracting Parties might employ the same method of examining the EFTA convention that they had used in examining the Common Market Treaty. Since the 15th Session was already underway, the Executive Secretary of the Contracting Parties suggested, and the Contracting Parties approved, a procedure for examining the EFTA convention. The procedure provided for distributing the text of the convention to individual contracting parties by the end of 1959. Individual contracting parties were then to submit questions to the Secretariat, which, in turn, would transmit them to the EFTA countries concerned. The replies were to be distributed to individual contracting parties in March 1960, and the Intersessional Committee was then to be convened to discuss the EFTA convention.

Early in their 16th Session, which was held in May–June 1960, the Contracting Parties appointed a working party to examine the provisions of the EFTA convention in the light of the relevant provisions of the General Agreement, and to study—with particular reference to article XXIV—the provisions of the agreement under which the Contracting Parties should consider the EFTA arrangement. The report, which the working party submitted later in the 16th Session, covered the following principal topics: The provisions of the EFTA convention and their effects on trade; the effects of the provisions of the EFTA convention on the preferential systems to which member states are parties; quantitative restrictions on imports; quantitative restrictions on exports; agriculture and fisheries; and the question of the consistency of the EFTA convention with article XXIV of the General Agreement. In the concluding paragraph of the report, the working party stated that, because of the limited time available to it, it could not make recommendations to the Contracting Parties concerning either the compatibility of the EFTA convention with the General Agreement or the manner in which specific provisions in both documents might be considered by the Contracting Parties. Most of the contracting parties that participated in the plenary meetings of the 16th Session commented favorably on the formation of the proposed free-trade area and on its general purpose. Several contracting parties, however, were not satisfied with certain provisions of the EFTA convention, notably those that related to agriculture and quantitative restrictions. The Contracting Parties adopted the report of the working party, and suggested that the EFTA convention be placed on the agenda for discussion at their 17th Session.

### Latin American Free-Trade Area

The Latin American countries have long desired to accelerate their economic development by progressively integrating their economies. To assist them in achieving this objective the United Nations Economic

Commission for Latin America (ECLA) has made a number of studies and proposed a number of measures that those countries might adopt. As a result of those proposals, of cooperation by Latin American countries, and of encouragement by the Organization of American States and the Organization of Central American States, some progress has been made toward the goal of economic integration in Latin America.

Although the idea of establishing a Latin American regional market goes back at least to 1949, the greatest impetus to its development came with the signing of the Treaty for the European Economic Community, or Common Market, in 1957. At their 13th Session in 1958 the Contracting Parties were informed that on October 31, 1958, a majority of the Latin American countries had signed a joint declaration (the so-called Rio Declaration) stating the intention of Latin American countries to promote trade expansion within the area, to cooperate more closely in economic matters, and ultimately to join in a regional market. Brazil and Chile informed the Contracting Parties that they intended to conclude arrangements with Argentina looking toward the integration of the economies of the three countries, and that other Latin American countries would be free to adhere to these arrangements when they were in a position to do so. Brazil and Chile undertook to notify the Contracting Parties of further developments with respect to the proposed arrangements. The Contracting Parties noted the statements made by Brazil and Chile and reminded them that the proposed arrangements should be compatible with the spirit and objectives of the General Agreement.

At the 14th Session, Brazil, Chile, and Uruguay informed the Contracting Parties that, together with Argentina, they had examined several alternative solutions to the trade problems that face them and had prepared a draft of a free-trade-area arrangement. They stated that the draft arrangement had been examined by other interested Latin American countries and that when a final draft had been agreed upon, it would be opened for signature by Latin American countries and then submitted to the Contracting Parties for their consideration.

During their 15th Session the Contracting Parties received a communication from the delegations to the Montevideo Conference concerning the proposed Latin American free-trade area.[49] The communication stated that the first period of sessions of the Montevideo Conference —held during the period September 16–30, 1959—had been completed, and that the text of a draft treaty, approved by the participating governments, was being transmitted for consideration by the Contracting Parties. The Contracting Parties discussed the proposal for a Latin

[49] The communication was sent by the delegations of Brazil, Chile, Peru, and Uruguay, and by the observers from Argentina and Bolivia.

American free-trade area at a plenary session. During the discussion the four contracting parties to the General Agreement that proposed to participate in the free-trade area—Brazil, Chile, Peru, and Uruguay—stated that final consideration of the treaty would take place during February 1960, and that shortly thereafter they would submit a final text of the treaty to the Contracting Parties.

At their 16th Session the Contracting Parties noted that the four Latin American contracting parties mentioned above had joined with Argentina, Mexico, and Paraguay as signatories to a treaty for the establishment of a Latin American free-trade area.[50] The treaty was signed in Montevideo on February 18, 1960, and was then submitted to the Contracting Parties for examination under article XXIV:7. On March 14, 1960, the Contracting Parties distributed the text of the Montevideo Treaty to the contracting parties and—utilizing the procedure that had been employed in examining other treaties establishing regional groupings—invited individual contracting parties to submit any questions they might have concerning the provisions of the treaty and its implementation. On the basis of the questions received, the Secretariat of the Contracting Parties prepared and submitted questionnaires to the member countries of the Latin American free-trade area. The replies to the first questionnaire were received during the 16th Session, before the Contracting Parties began their discussion of the Montevideo Treaty.

At a plenary session of the Contracting Parties the Chilean delegate spoke on behalf of the seven member countries of the Latin American free-trade area. He stated that the free-trade area contemplated by the treaty would result in increased trade among the seven countries without impairing the obligations of the four member countries that are also contracting parties to the General Agreement. Other contracting parties that participated in the discussion indicated their general support for the idea of a Latin American free-trade area. They recommended, however, that the Contracting Parties establish a working party to examine the Montevideo Treaty and its relationship to the General Agreement. The Contracting Parties therefore established a working party to examine the provisions of the Montevideo Treaty—in the light of the relevant provisions of the General Agreement—and to report to the Contracting Parties at the 17th Session. Membership on the working party is to be open to all interested contracting parties to the General Agreement. Argentina, Mexico, and Paraguay, which are signatories to the Monte-

[50] Although Bolivia participated in the negotiations which resulted in the draft treaty, it did not sign the Montevideo Treaty. Bolivia was therefore given until Mar. 31, 1961, to accede to the treaty as a signatory state. Should it not accede as a signatory state by that date, Bolivia could become a member of the Latin American free-trade area under the provisions of art. 57 of the Montevideo Treaty.

video Treaty but not contracting parties to the General Agreement were also invited to participate in the activities of the working party.[51]

## PROPOSED ACCESSIONS TO THE GENERAL AGREEMENT

Articles XXVI:5(c) and XXXIII of the General Agreement on Tariffs and Trade set forth the conditions under which countries may accede to that agreement. Article XXVI:5(c) provides that if any customs territory, in respect of which a contracting party has accepted the General Agreement, possesses or acquires full autonomy in the conduct of its external commercial relations and of the other matters provided for in the agreement, such territory shall, upon sponsorship through a declaration by the responsible contracting party establishing the above-mentioned fact, be deemed to be a contracting party to the agreement. Article XXXIII provides that a government not party to the General Agreement, or a government acting on behalf of a separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in the agreement, may accede to the agreement, on its own behalf or on behalf of that territory, on terms to be agreed between such government and the Contracting Parties. Article XXXIII further provides that decisions taken by the Contracting Parties under its provisions shall be by a two-thirds majority.

During the period covered by this report the Contracting Parties took actions with respect to the proposed accession to the General Agreement of Switzerland, Yugoslavia, Israel, Poland, Tunisia, Spain, and Portugal. They also arranged for consultations with two newly independent countries—the Republic of the Cameroons and the Republic of Togoland—looking toward their possible accession to the agreement.

### Application of the Agreement to Newly Independent Countries

Under the provisions of paragraph 5(c) of article XXVI of the General Agreement, a country that acquires full autonomy in the conduct of its commercial relations and other matters, and to which the provisions of the General Agreement have applied before its independence, may be sponsored as a contracting party by the country that grants it independence. Three countries have become contracting parties to the General Agreement under this provision—Indonesia in 1950[52] and Ghana and Malaya in 1957. Questions have arisen, however, concerning the application of the General Agreement to certain other countries that have

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[51] For a detailed discussion of developments with respect to the Latin American free-trade area, see ch. 4 of this report.

[52] Indonesia became a contracting party under the provisions of the original art. XXVI:4(c), which are identical with those of the revised art. XXVI:5(c).

recently attained their independence. For example, because of the lapse of time since several customs territories became independent from France, some contracting parties have questioned whether those territories could become contracting parties in their own right through the sponsorship provision of article XXVI and, therefore, whether the Contracting Parties should continue to apply the provisions of the General Agreement to the trade of those territories.

To eliminate this uncertainty about the application of the provisions of the General Agreement, the Contracting Parties at their 12th Session revised the sponsorship procedure. They agreed to establish a specific time limit for sponsorship of each newly independent country at the first regular session following notification that the particular customs territory had acquired commercial autonomy. Until the specified time limit expires, contracting parties will be obligated to apply de facto the General Agreement to the trade of that territory, provided the territory continues to apply de facto the General Agreement to the contracting parties.

At their 16th Session France notified the Contracting Parties that the Republic of the Cameroons and the Republic of Togoland—formerly territories under French control—had acquired full autonomy in the conduct of their external affairs beginning January 1, 1960, and April 27, 1960, respectively. Inasmuch as France had applied the General Agreement on behalf of these two territories from 1948 until they became independent, the Contracting Parties authorized the Executive Secretary to conduct consultations with the two new countries and with France, as provided for under article XXVI:5(c) of the General Agreement, and to report on the results of the consultations at the 17th Session.[53]

### Guinea

At the 14th Session in May 1959, France notified the Contracting Parties that Guinea had acquired full autonomy in the conduct of its external commercial relations. The Contracting Parties noted that the Executive Secretary was, therefore, authorized to conduct consultations with Guinea and France pursuant to the provisions of article XXVI:5(c).

During the 15th Session of the Contracting Parties in October–November 1959 the Government of Guinea informed the Executive Secretary that, because it was in the process of revising its foreign-trade policy and its customs tariff, it desired to maintain the status quo. The Executive Secretary thereupon proposed that the Contracting Parties consider taking action with respect to Guinea under the provisions of article XXVI:2. After discussion, the Contracting Parties on November 19,

[53] For a discussion of earlier actions taken under art. XXVI:5(c) after its revision during the 12th Session of the Contracting Parties, see *Operation of the Trade Agreements Program*, 12th report, pp. 52–53.

1959, adopted a resolution under which those contracting parties that wish to do so would continue for a period of 2 years to apply de facto the General Agreement in their relations with Guinea, provided Guinea applies de facto the General Agreement to them. At any time during the 2-year period the Government of Guinea may advise the Contracting Parties of its decision as to its future relationship to the General Agreement.

### Switzerland

On September 15, 1956, Switzerland asked the Contracting Parties to consider—at their 11th Session—its provisional accession to the General Agreement. Switzerland recognized the existence of certain special problems in connection with its accession; therefore it limited its request to a provisional accession, so that during the period of provisional accession it could enter into consultations with the Contracting Parties with a view to finding solutions to these problems. The Swiss Government pointed out that tariff negotiations, which are prerequisite to definitive accession, would be possible after the Swiss Federal Council and the Swiss Parliament had approved a revision of the Swiss customs tariff. The Contracting Parties approved Switzerland's request that it be permitted to undertake tariff negotiations with a view to provisional accession to the General Agreement, and directed the Intersessional Committee to establish a negotiations committee to draft the declaration relating to Switzerland's provisional accession.

At the 13th Session of the Contracting Parties in 1958, Switzerland reported that it had concluded negotiations with a number of contracting parties. On November 22, 1958, therefore, the Contracting Parties opened for signature a Declaration on the Provisional Accession of the Swiss Confederation to the General Agreement on Tariffs and Trade.[54] The declaration, which was to be signed by Switzerland and those contracting parties that wished to do so, provided that trade between the signatories and Switzerland would be governed by the terms of the declaration. The declaration also provided for entry into force of the tariff concessions that resulted from the negotiations mentioned above. Under the declaration, commercial relations between Switzerland and the participating contracting parties were to be based on the provisions of the General Agreement, but were subject to certain reservations by Switzerland and to such reservations as might be made by other signatories to the decla-

[54] For the full text of the declaration, see Contracting Parties to GATT, *Basic Instruments . . .*, 7th supp., Sales No.: GATT/1959–1, Geneva, 1959, pp. 19–21. By a decision of the Contracting Parties at their 14th Session, the declaration was to be open for signature by Switzerland and contracting parties until the end of the 15th Session.

ration.[55] The Contracting Parties decided that the provisions of the declaration would be effective until December 31, 1961—subject to the possibility of extension by mutual consent of the parties to the declaration—or until such time as Switzerland definitively accedes to the General Agreement, whichever occurs first. On November 22, 1958, the Contracting Parties also adopted a resolution inviting Switzerland to participate in the work of the Contracting Parties. The resolution will remain in effect until Switzerland accedes to the General Agreement under the provisions of article XXXIII or until December 31, 1961, whichever occurs first—subject to the possibility of extension by the Contracting Parties. Switzerland accepted the invitation and began to participate in the work of the Contracting Parties at the end of the 13th Session in 1958.

At their 14th Session the Contracting Parties noted that no objection had been raised against a proposal to extend the closing date for signature or acceptance of the Swiss declaration and that, as a result, the Executive Secretary was authorized—notwithstanding the provisions of paragraph 7 of the declaration—to receive acceptances up to the end of the 15th Session of the Contracting Parties.

At their 15th Session in October–November 1959 the Contracting Parties—utilizing the same procedure they employed at their 14th Session—agreed to extend until April 1, 1960, the time limit for signature of the Declaration on the Provisional Accession of Switzerland. The Contracting Parties also authorized the Intersessional Committee to grant, if necessary, a further extension of the time limit, provided there were no objections by interested contracting parties.

On November 26, 1959, Switzerland notified the Contracting Parties that it had ratified the Declaration on the Provisional Accession of Switzerland to the General Agreement. On January 1, 1960, the declaration became effective between Switzerland and the 25 contracting parties which had accepted it.

At their 16th Session in May–June 1960 the Contracting Parties noted that Switzerland had, under paragraph 1(b) of the declaration, made certain reservations concerning its application of article XI of the General Agreement, but that Switzerland had agreed to submit reports to the Contracting Parties on the measures it maintained under these reservations. The first report, dated May 13, 1960, was received and distributed during the 16th Session. The Contracting Parties also noted that, under paragraph 1(c) of the declaration, Switzerland had agreed to consult with interested contracting parties with a view to finding solutions com-

[55] For a discussion of the Swiss reservations, see ibid., 7th supp., pp. 19–20; ibid., 5th supp., Sales No.: GATT/1957–1, Geneva, 1957, pp. 40–46; and *Operation of the Trade Agreements Program,* 10th report, pp. 44–46.

patible with the basic principles of the General Agreement and the problems raised by the Swiss reservations. After discussion, the Contracting Parties agreed to extend the closing date for signatures and acceptances of the declaration to the end of the 17th Session. The Contracting Parties also agreed that consultations between Switzerland and interested contracting parties would begin at the 17th Session.

### Yugoslavia

At their 13th Session in October–November 1958 the Contracting Parties considered Yugoslavia's application for "associate" membership in the General Agreement. Yugoslavia declared that in due course it intended to become a full member, but stated that its present position precluded assumption of all the obligations of the agreement. It was therefore requesting that it be considered for "associate" membership, and that the terms of such membership be agreed upon by itself and the Contracting Parties. The Contracting Parties appointed a working party to consider the terms on which Yugoslavia might be brought into association with the Contracting Parties.

At the 14th Session in May 1959, the working party submitted a draft declaration on relations between Yugoslavia and contracting parties to the General Agreement. The draft declaration provided that contracting parties signing it would accord Yugoslavia the treatment provided for in the General Agreement to the same extent that Yugoslavia accorded such treatment to contracting parties. On May 25, 1959, by a vote of 32–0, the Contracting Parties approved the declaration. The declaration was to enter into force when accepted by Yugoslavia and by two-thirds of the contracting parties. On May 25, 1959, the Contracting Parties also decided that, when the declaration entered into force, they would invite Yugoslavia to participate in the sessions of the Contracting Parties.

At the opening of their 15th Session in October–November 1959 the Contracting Parties invited Yugoslavia to participate in the work of the 15th Session notwithstanding the fact that the Declaration of May 25, 1959, had not yet entered into force. On November 16, 1959, however, the declaration was accepted by Yugoslavia and by two-thirds of the contracting parties, and thereby entered into force. In accordance with the Decision of May 25, 1959, Yugoslavia will therefore participate in future sessions of the Contracting Parties.

### Israel

On March 26, 1959, Israel formally requested permission to accede to the General Agreement under the provisions of article XXXIII. At the 14th Session of the Contracting Parties in May 1959 there was almost unanimous endorsement of Israel's request for accession. The Contracting

Parties therefore established a working party to determine the conditions under which Israel might accede to the agreement.

In its report, which it submitted to the Contracting Parties late in the 14th Session, the working party stated that, before agreeing on the terms for Israel's accession, it would be desirable to await the outcome of tariff negotiations between contracting parties and Israel, which would be held during the general multilateral negotiations scheduled for 1960–61. Because it would be some time before Israel could complete these negotiations and accede definitively to the General Agreement pursuant to article XXXIII, the working party submitted a draft declaration on Israel's provisional accession. The declaration, which the Contracting Parties approved on May 29, 1959, was then opened for acceptance by the contracting parties. Under the terms of the declaration, commercial relations between the signatory governments and Israel shall, with certain exceptions, be based on the provisions of the General Agreement. At the time they approved the declaration, the Contracting Parties also approved a decision inviting Israel to participate in the work of the Contracting Parties. The decision will continue in effect until Israel definitively accedes to the agreement pursuant to article XXXIII after tariff negotiations scheduled for 1960–61 or until December 31, 1961, whichever occurs first.

On September 9, 1959, Israel deposited an instrument of ratification of the declaration of its provisional accession to the General Agreement. The declaration entered into force on October 9, 1959, for the parties to that instrument. The instrument will enter into force for each additional contracting party that accepts it on the 30th day following its acceptance.

### Poland

On March 31, 1959, Poland formally expressed its desire to accede to the General Agreement in accordance with the provisions of article XXXIII. At the 14th Session of the Contracting Parties in May 1959 the Polish observer requested that, should the fact that Poland's economy is based on principles different from those of most contracting parties preclude its becoming a full member, Poland be permitted to accede as an "associate" member. Several contracting parties called attention to the desirability of closer cooperation between Poland and contracting parties to the General Agreement. The Contracting Parties, therefore, established a working party to consider arrangements for such a relationship, and directed it to submit its recommendation to the Contracting Parties at the 15th Session.

The working party submitted its report—together with a draft declaration and a draft decision—to the Contracting Parties at their 15th Session in October–November 1959. The draft declaration of Poland's

provisional accession to the General Agreement contained certain general provisions pertaining to commercial relations between Poland and any contracting party that might wish to accept it; the draft decision invited Poland to participate in the work of the Contracting Parties after the declaration had entered into force. After discussing the working party's report, the Contracting Parties voted to adopt both the draft declaration and the draft decision. The Chairman of the Contracting Parties noted that, although Poland would not under the terms of the declaration and the decision be accorded full voting rights, it would be permitted to participate in the sessions of the Contracting Parties.

Later in the 15th Session the Polish observer stated that his Government was prepared to make certain commitments—at the next tariff Conference—to import specified quantities of commodities from contracting parties to the General Agreement in exchange for tariff concessions by them on their imports of certain Polish products. The Contracting Parties decided that any contracting party that was interested in the Polish offer should consult individually with Poland, and that the question of Polish participation in the forthcoming tariff Conference be placed on the agenda for the 16th Session.

At their 16th Session in May–June 1960 the Contracting Parties discussed the question of Poland's participation in the 1960–61 tariff Conference. The Contracting Parties noted that committee I (tariff reduction) had made provision—in its report at the 15th Session—for a tariff negotiations committee that would convene before the opening of the 1960–61 tariff Conference to deal with the problems of negotiation. It was, therefore, proposed that any contracting party desiring to avail itself of the Polish offer submit its proposals to the Tariff Negotiations Committee, which would then determine whether there was any basis for negotiation. After discussion, the Contracting Parties decided that any technical problems that might arise with respect to negotiations with Poland would be referred to the Tariff Negotiations Committee and that the Committee would report to the Contracting Parties at the 17th Session.

### Tunisia

In their Recommendation of November 22, 1957, as amended by their Decision of May 25, 1959, the Contracting Parties recommended that contracting parties continue to apply de facto the General Agreement in their relations with Tunisia, provided that country continued to apply de facto the agreement to them. The arrangement was to continue until 2 weeks after the beginning of the 15th Session of the Contracting Parties.

At the 15th Session in October–November 1959, Tunisia requested that it be permitted to accede to the General Agreement under the provisions of article XXXIII. After discussion, the Contracting Parties agreed to

establish a working party to examine Tunisia's request and to make recommendations to the Contracting Parties.

The working party's report, which was submitted during the 15th Session, recommended that the Contracting Parties make arrangements to meet Tunisia's request for definitive accession under article XXXIII, as well as its request for provisional accession to the General Agreement pending its definitive accession. In order to permit Tunisia to participate in the work of the Contracting Parties, the working party also recommended that the Contracting Parties adopt a draft declaration on the provisional accession of Tunisia and a draft decision relating to participation of Tunisia in the work of the Contracting Parties, both of which were annexed to the working party's report. The Contracting Parties adopted the recommendations of the working party. The Declaration on the Provisional Accession of Tunisia, which was approved by a two-thirds majority of the Contracting Parties on November 12, 1959, was then opened for signature. By their Decision of November 12, 1959, the Contracting Parties invited Tunisia to participate in the work of the Contracting Parties, and arranged for Tunisia to participate in the tariff negotiations scheduled to begin in 1960. The decision will continue in force until Tunisia accedes definitively to the General Agreement after tariff negotiations with the contracting parties or until December 31, 1961, whichever date is earlier—subject to the possibility of extension of the date by the Contracting Parties.

### Spain and Portugal

During their 16th Session in May–June 1960 the Contracting Parties considered the requests of Spain and Portugal for accession to the General Agreement in accordance with the provisions of article XXXIII. After discussion, the Contracting Parties on June 4, 1960, adopted draft decisions (1) to invite Spain and Portugal to participate in the work of the Contracting Parties, (2) to make arrangements for tariff negotiations between contracting parties and Spain and Portugal during the tariff Conference commencing in 1960, and (3) to continue the consultations that had taken place at the 16th Session between Spain and Portugal and interested contracting parties. The decisions will continue in effect until Spain and Portugal accede to the General Agreement after tariff negotiations with contracting parties or until June 30, 1962, whichever date is earlier.[58]

[58] At their 16th Session the Contracting Parties prepared draft declarations of provisional accession for Spain and Portugal, but because of lack of time the declarations will be opened for signature by Spain and Portugal and contracting parties to the General Agreement at a later session of the Contracting Parties.

## TARIFFS AND TARIFF NEGOTIATIONS

### Plans for Future Tariff Negotiations

In 1958, at the beginning of their 13th Session, the Contracting Parties held a series of ministerial meetings, at which the United States was represented by Mr. C. Douglas Dillon, Under Secretary of State for Economic Affairs. At these meetings the United States proposed that arrangements be made to hold a fifth general round of tariff negotiations beginning in mid-1960.[57] The United States also suggested that such negotiations be completed before January 1, 1962, the date when the treaty for the European Economic Community requires member states to take the first step in adjusting their national external tariffs to the Community's common external tariff. At the conclusion of the ministerial meetings, the ministers agreed that it would be desirable to hold a fifth general round of tariff negotiations and recommended that the Contracting Parties consider the matter.

During their plenary session the Contracting Parties discussed the proposal for a new round of tariff negotiations. The U.S. delegate stated that such negotiations would be timely, inasmuch as negotiations with the European Economic Community, as well as certain other negotiations, were already contemplated. General tariff negotiations beginning in 1960 could therefore be combined with a variety of negotiations that otherwise would have to be conducted separately. The Norwegian delegate stated that inasmuch as many contracting parties had not found acceptable proposals for automaticity in tariff reductions, his country appreciated the U.S. proposal for a further round of tariff negotiations on a product-by-product basis.[58] Since the U.S. proposal had the general approval of the contracting parties, the Contracting Parties appointed a committee to examine it and to suggest rules and conditions, as well as a time and place, for the proposed negotiations.

On the basis of the committee's recommendation, the Contracting Parties decided at their 14th Session in May 1959 to hold a general tariff Conference beginning in September 1960. The Conference will embrace four types of negotiations: (1) Negotiations by contracting parties for new or additional concessions; (2) renegotiations with the member states of the European Economic Community pursuant to article XXIV:6; (3) renegotiations of concessions in existing schedules pursuant to article XXVIII:1; and (4) negotiations with countries that desire to accede to the General Agreement. The tariff Conference will consist of two phases. The first phase, from September 1960 to the end

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[57] The four previous general rounds of tariff negotiations were held at Geneva in 1947, at Annecy in 1949, at Torquay in 1950–51, and at Geneva in 1956.

[58] For a discussion of the proposals for automaticity in tariff reductions, see *Operation of the Trade Agreements Program*, 11th report, p. 54.

of that year, will be concerned with renegotiations (items 2 and 3 above); the second phase will be concerned with negotiations with contracting parties for new or additional concessions and negotiations with countries that desire to accede to the General Agreement (items 1 and 4 above).[59]

## Tariff Revisions

***Brazil***

At the 10th Session in 1955 Brazil advised the Contracting Parties that it intended to submit a draft of a new customs tariff to the Brazilian Congress; the draft tariff was submitted to the Congress in 1956. According to Brazil, its old tariff did not provide sufficient revenue or protection, and the nomenclature was confusing and obsolete. For these and other reasons, Brazil had been forced to impose quantitative restrictions on imports and to adopt exchange controls.

At the 11th Session of the Contracting Parties, Brazil requested and was granted, under the provisions of article XXV, a waiver from the provisions of paragraph 1 of article II so that it might place its new tariff in effect. Under the terms of the waiver, Brazil was relieved of the obligation to renegotiate existing tariff concessions before it made effective the somewhat higher rates of its new tariff. However, Brazil was directed to conduct such renegotiations within 1 year from the time its new tariff entered into force. The Contracting Parties also established a tariff renegotiations committee to arrange for the renegotiations and to consider questions of general concern to them.

Shortly before the 12th Session, Brazil notified the Intersessional Committee that its new tariff had entered into force on August 14, 1957. Because the tariff renegotiations would not begin for several months, it appeared that the Brazilian tariff concessions resulting from the renegotiations might not become effective before August 14, 1958, as provided in the waiver. Inasmuch as the Contracting Parties would not be in session at that time, the Tariff Negotiations Committee requested the Intersessional Committee to extend the deadline if so requested, and the Contracting Parties authorized the latter to do so. On July 10, 1958, the Intersessional Committee extended the time limit to July 31, 1959; at their 14th Session in 1959 the Contracting Parties further extended the time limit to the close of the 15th Session.

At the 13th Session of the Contracting Parties the Tariff Negotiations Committee submitted to the Contracting Parties a draft protocol relating to the negotiations for establishing a new Brazilian schedule to the General Agreement. The Committee proposed that the protocol, as well as the schedules to be annexed thereto, be opened for signature on

[59] After the close of the period covered by this report, the Contracting Parties found it necessary to delay the beginning of the second phase until May 1961.

December 31, 1958. Negotiations completed after the protocol had been opened for signature were to be annexed to it by means of procès-verbaux. The Contracting Parties approved the protocol and agreed that it would be opened for signature on December 31, 1958.

In May 1959, during the 14th Session of the Contracting Parties, the chairman of the Tariff Negotiations Committee reported that Brazil had concluded bilateral negotiations with 17 interested contracting parties. At the 15th Session of the Contracting Parties in October–November 1959, Brazil requested a further extension of the time limit for renegotiations with contracting parties. The Contracting Parties deferred action on Brazil's request until their 16th Session. In June 1960, during the 16th Session, the Contracting Parties discussed the Brazilian request and agreed to grant Brazil an extension of the time limit until August 3, 1960.

***Cuba***

At the Ninth Session in 1954–55, Cuba notified the Contracting Parties that it was completely revising its obsolete and inadequate customs tariff. According to Cuba, changes in its tariff were necessary to bring it up to date technically, to more adequately safeguard the position of Cuban exports in world markets, and to stimulate the country's economic development. The new Cuban customs tariff entered into force on February 24, 1958, and the new rates of duty became effective on March 17, 1958, but only for imports from countries with which Cuba did not have trade-agreement obligations. For those countries with which it had such obligations, Cuba suspended application of the new tariff until such time as it could conclude negotiations with them. At their 12th Session the Contracting Parties had agreed that, where applicable, Cuba might undertake its negotiations as an underdeveloped country under the provisions of article XVIII. The remaining negotiations were to be carried out under the provisions of article XXVIII.[60]

At the 13th Session of the Contracting Parties the Cuban representative proposed that a tariff negotiations committee be established to arrange for the negotiations and that formal negotiations under article XXVIII begin after January 1, 1959. The Chairman of the Contracting Parties proposed that contracting parties interested in negotiating with Cuba inform the Executive Secretary of the Contracting Parties of their intention. He also suggested that such contracting parties comprise the Tariff Negotiations Committee, which would deal with problems that might arise in planning and conducting the negotiations.

At the 15th Session of the Contracting Parties in October–November 1959, the Cuban representative reported on the status of his Government's tariff reform, the modification of concessions listed in Cuba's

[60] For a discussion of the time limit placed on art. XXVIII negotiations, see the section of this chapter on the continued application of schedules and art. XXVIII negotiations.

schedule of the General Agreement, and the subsequent negotiations and consultations for which arrangements had been made at the 12th Session. The representative noted that Cuba had made effective its revised customs tariff, but had withheld application of the duty increases provided therein for those commodities on which it had granted tariff concessions, and would continue to withhold application of such duty increases until renegotiations were completed. The representative further stated that since Cuba granted preferential treatment to a wide range of U.S. products, it had commenced renegotiations with the United States. The Cuban representative also stated that, although the Contracting Parties had authorized Cuba to impose quantitative import restrictions to prevent excessive imports of products affected by the proposed tariff negotiations, his Government had not found it necessary to impose such restrictions. The Contracting Parties took note of the Cuban statement.

***Finland***

On September 18, 1959, the Government of Finland notified the Contracting Parties that it planned to revise its customs tariff. Finland stated that its old tariff, which dated back to 1938, was technically out of date. The proposed new tariff, which was to enter into force on January 1, 1960, would conform to the Brussels Nomenclature and would involve the conversion of many specific rates of duty to ad valorem rates.

At the 15th Session in October–November 1959, Finland informed the Contracting Parties that it had decided not to convert the specific rates of duty in its tariff to ad valorem rates. Since the only issue remaining before the Contracting Parties related to Finland's plan to bring its tariff into conformity with the Brussels Nomenclature—and because the normal rectification procedure would apply in such a case—the Contracting Parties took no formal action on the matter. Finland agreed to furnish copies of its draft tariff revision to the contracting parties and to be guided by the normal rectification procedures.

***Greece***

At the 15th Session of the Contracting Parties in October–November 1959 the Greek representative stated that his country planned to carry out the tariff revision it had announced at the end of 1957. At that time the tariff revision envisioned by Greece involved conformance with the Brussels Nomenclature, a matter which Greece could accomplish by following the normal rectification procedures. With regard to the modification of concessions, Greece had invoked paragraph 5 of article XXVIII and, therefore, could renegotiate the concessions without formal authorization by the Contracting Parties.

The Greek representative noted, however, that the revised tariff to

be submitted to his country's Parliament at its next session involved increases in the rates of duty on items that had been bound against increase in Greece's schedule of the General Agreement. Moreover, since the revised tariff would enter into force almost immediately after its approval by the Greek Parliament, there would not be sufficient time for renegotiations under article XXVIII. Greece therefore asked the Contracting Parties to grant it a waiver so that the revised tariff could enter into force upon its approval by the Parliament. Greece could then at a later date renegotiate the items covered by the waiver.

After discussion late in their 15th Session, the Contracting Parties granted Greece a waiver from its obligations under article II. Under the waiver, which is similar to that granted to New Zealand in 1957, Greece would complete its renegotiations and consultations under article XXVIII and would report to the Contracting Parties at their 16th Session. At their 16th Session the Contracting Parties, acting on a request by Greece, extended the time limit for Greece's tariff renegotiations to the end of the 17th Session.

*New Zealand*

Since 1955 New Zealand has been engaged in revising its customs tariff. At the 12th Session of the Contracting Parties in 1957 the New Zealand delegate stated that, although his country could comply with all the other provisions of article XXVIII of the General Agreement, it could not comply with the provisions related to timing, because of the legal procedures that his country must follow in revising its tariff. The procedure under article XXVIII of the General Agreement contemplates that negotiations with interested parties be conducted before a revised tariff becomes effective.[61] In New Zealand, a new tariff is placed in effect—without prior announcement or publication—by a resolution of the parliamentary Committee on Ways and Means at the same time that a bill ratifying the resolution is introduced and considered at a parliamentary session. Under New Zealand law, therefore, negotiations with interested contracting parties cannot be conducted, as required by article XXVIII, before the tariff becomes effective. The New Zealand delegate stated that as soon as the new tariff became effective his Government would enter into negotiations with affected contracting parties and, if need be, offer them compensatory concessions.

At their 12th Session the Contracting Parties authorized New Zealand to place the revised tariff in effect at the same time that it was submitted to the New Zealand Parliament. They decided, however, that before the new tariff entered into force, New Zealand should advise interested contracting parties of the modified or withdrawn items and of the compensatory concessions it proposed. They also decided that New Zealand

[61] See the section of this chapter on continued application of schedules.

should promptly thereafter enter into negotiations with interested contracting parties and complete such negotiations before the beginning of the 13th Session.

At the 13th Session of the Contracting Parties, New Zealand reported that unforeseen circumstances had prevented the application of its revised tariff and that, consequently, the required negotiations had not taken place. New Zealand therefore requested the Contracting Parties to extend the time limit for completing the negotiations to the end of the 15th Session in 1959. The Contracting Parties approved New Zealand's request. At their 16th Session in May–June 1960, the Contracting Parties granted New Zealand's request for a further extension of the time limit for completing its negotiations. The time limit was extended to December 31, 1960, subject to the possibility of further extension by the Contracting Parties at their 17th Session.

### Trade Agreement Between Australia and the Federation of Rhodesia and Nyasaland

On December 3, 1955, the Contracting Parties authorized Australia and the Federation of Rhodesia and Nyasaland to complete, by July 1, 1958, the adjustment of the tariff preferences provided for in the trade agreement that the two countries had concluded on June 30, 1955.[62]

At their 13th Session in 1958 the Contracting Parties, in response to a request by Rhodesia and Nyasaland, extended to July 1, 1959, the time limit for completing these adjustments. At their 14th Session the Contracting Parties further extended the time limit to the end of the 15th Session.[63]

On June 26, 1959, and August 24, 1959, respectively, Australia and the Federation of Rhodesia and Nyasaland notified the Contracting Parties that the adjustments mentioned above had been completed. Under the provisions of the decision adopted by the Contracting Parties on December 3, 1955, both countries agreed to consult with interested contracting parties concerning the adjusted tariff preferences, provided requests for such consultations were made within 60 days after the adjustments had been agreed upon. During their 15th Session, the Secretariat notified the Contracting Parties that the 60-day period had elapsed without any requests for consultations. The Contracting Parties thereupon noted that the adjustment of the tariff preferences provided for in the trade agreement between the two countries had been completed.

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[62] See *Operation of the Trade Agreements Program*, 9th report, pp. 36–38.

[63] In a communication dated May 28, 1959, Australia informed the Contracting Parties that it had completed the process of adjusting the preferences relating to imports from Rhodesia and Nyasaland.

### Trade Agreement Between South Africa and the Federation of Rhodesia and Nyasaland

At their 15th Session in October–November 1959 the Contracting Parties received a joint request by the Union of South Africa and the Federation of Rhodesia and Nyasaland to examine—in advance of the renegotiation of the trade agreement between the two countries—the special commercial relationships which exist between these countries, with particular reference to the preferential treatment extended by South Africa to imports from Rhodesia and Nyasaland, as well as to the reciprocal exemption from balance-of-payments import restrictions of certain goods exchanged between them. The request by the two countries arose out of the proposed termination—on June 30, 1960—of their trade agreement of June 28, 1955. Both countries felt that continuation of the special commercial arrangements between the two countries was essential to the negotiation of any new trade agreement between them and to the economic development of Rhodesia and Nyasaland.

The Contracting Parties established a working party to examine the joint request. In its report to the Contracting Parties during their 15th Session, the working party stated that it had studied the issues presented in the request, but that it did not support the contention of the two countries that discriminatory application of quantitative restrictions for balance-of-payments reasons is justified to encourage economic development. With respect to the issue of preferential treatment, the working party expressed the view that the two countries be requested to report annually on any new waiver which might be granted to them and that any such waiver be reexamined by the Contracting Parties at the end of some specified period. The Contracting Parties adopted the report of the working party.

At their 16th Session in May–June 1960, upon receipt of a draft of the proposed new trade agreement between South Africa and the Federation of Rhodesia and Nyasaland, the Contracting Parties established a working party to examine it.

## OTHER DEVELOPMENTS RELATING TO THE AGREEMENT

### Application of Article XXXV in the Accession of Japan

At their Eighth Session in 1953 the Contracting Parties approved Japan's provisional participation in the General Agreement. Negotiations for Japan's definitive accession to the agreement began in February 1955 and were concluded in June of that year; Japan became a contracting party to the agreement on September 10, 1955.[64] Although the Con-

[64] For a detailed discussion of Japan's accession to the General Agreement, see *Operation of the Trade Agreements Program*: 6th report, pp. 51–54; 7th report, pp. 75–79; and 8th report, pp. 71–72.

tracting Parties unanimously approved the terms of Japan's accession, 14 contracting parties believed it would not be to their advantage to apply the provisions of the General Agreement to that country. Those countries, therefore, did not negotiate tariff concessions with Japan. Instead, they invoked the provisions of article XXXV of the agreement, which permit a contracting party to refrain from applying the agreement to an acceding country with which it has not negotiated tariff concessions. Such widespread invocation of article XXXV was of serious concern to Japan, and it therefore requested that the matter be placed on the agenda for the 10th Session of the Contracting Parties.

At their 10th Session in 1955, and at each succeeding session, the Contracting Parties have discussed the application to Japan of the provisions of article XXXV of the agreement. On August 14, 1957, Brazil withdrew its invocation of article XXXV with respect to Japan, and on October 16, 1958, India did likewise; Haiti and Malaya have expressed their intention of doing so in the near future. Because of the accession of additional countries to the General Agreement, however, the number of contracting parties that invoked the provisions of article XXXV with respect to Japan still remained at 14 at the close of the period covered by this report.[65]

### Limitation and Elimination of Subsidies

Under the provisions of article XVI:4 and the related note in annex I of the General Agreement, contracting parties were obligated to abolish by January 1, 1958, or the earliest practicable date thereafter, all remaining direct or indirect subsidies on products other than primary products [66] when the exportation of these products resulted in their sale at prices lower than those for like products being sold in the domestic market. If such subsidies were not abolished by January 1, 1958, the contracting parties—under the so-called standstill provision—were obligated not to extend their scope beyond that existing on January 1, 1955, and were to continue them only until such time as they could agree to abolish them.

Because article XVI:4 specifies December 31, 1957, as the date until which no contracting party shall extend the scope of subsidization, the Contracting Parties at their 12th Session prepared a declaration for the

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[65] The 14 countries that were applying art. XXXV with respect to Japan at the close of the period covered by this report are Australia, Austria, Belgium, Cuba, France, Ghana, Haiti, Luxembourg, the Federation of Malaya, the Netherlands, New Zealand, the Federation of Rhodesia and Nyasaland, the Union of South Africa, and the United Kingdom.

[66] A primary product, for this purpose, is defined as "any product of farm, forest or fishery, or any mineral, in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade."

signatures of the contracting parties that continued to apply such subsidies. The declaration states that the signatory contracting parties will not until December 31, 1958, extend the scope of their subsidies on products other than primary products beyond that existing on January 1, 1955. The declaration was to enter into force when accepted by Belgium, West Germany, Japan, the United Kingdom, the United States, Canada, France, Italy, and the Netherlands. By the end of the 13th Session all except the last four of these countries had signed the declaration.

At the 13th Session in 1958 the Contracting Parties noted that should the declaration receive the necessary signatures and enter into force, it would remain in force for only 1 or 2 months—until December 31, 1958. Shortly before the close of the session, therefore, they opened for signature a procès-verbal extending the validity of the declaration to December 31, 1959. At the 14th Session the Contracting Parties noted that both the declaration and the procès-verbal had entered into force. After discussion at their 15th Session, the Contracting Parties further extended the expiration date of the declaration to December 31, 1960.

At their 16th Session in May–June 1960 the Contracting Parties adopted the report of the panel that had been appointed at the 13th Session to study notification procedures under article XVI. The Contracting Parties also discussed a proposal to replace, rather than renew, the old declaration relating to subsidies, and considered a new declaration that the Secretariat had drafted for this purpose. Under the terms of the draft declaration the standstill provision would apply only to subsidies actually maintained on the date the new declaration becomes effective. Moreover, any subsidy which is discontinued after the effective date of the declaration would be permanently eliminated. The draft declaration also provides for an annual review by the Contracting Parties of the progress made in eliminating the remaining subsidies. The Contracting Parties agreed to place the draft declaration on the agenda of the 17th Session. If approved by the Contracting Parties, the declaration would then be opened for signature.

### Notification of State Trading Activities

Article XVII of the General Agreement contains provisions relating to state trading enterprises. Paragraph 4(a) of that article requires contracting parties that establish or maintain state trading enterprises, or that grant exclusive or special privileges to any such enterprises, to notify the Contracting Parties of the commodities imported into and exported from their territories by such enterprises. At their 12th Session in 1957 the Contracting Parties decided that contracting parties which maintain state trading enterprises should submit their first reports by February 1, 1958, and annually thereafter.

At the 13th Session in 1958, several contracting parties stated that the information contained in the first reports indicated that state trading had become important in a number of countries, and that the annual reports would facilitate any inquiry by the Contracting Parties as to whether state trading was being conducted in a manner consistent with the general principles of nondiscrimination. The Contracting Parties therefore appointed a panel to consider the first reports and to make suggestions for improving future reports.

The panel's interim report, submitted to the Contracting Parties at their 14th Session in May 1959, noted that the panel had examined statements by 21 contracting parties, but that the information in the statements was not detailed enough to permit the panel to submit concrete findings to the Contracting Parties. The panel therefore recommended that all contracting parties be asked to reply to a revised questionnaire, and that contracting parties which do not maintain state trading enterprises so indicate. The Contracting Parties approved the panel's recommendation.

The panel submitted its final report at the 16th Session of the Contracting Parties in May–June 1960. The report indicated that because many contracting parties had failed to respond to the panel's revised questionnaire or had not properly responded, perhaps because of differing interpretations of the questions asked, the Contracting Parties would be unable to ascertain the extent to which state trading enterprises serve as a substitute for trade barriers such as tariffs and quantitative restrictions. For this reason the panel recommended that the appropriate questions in the questionnaire be clarified. The panel also recommended that the Contracting Parties publish a basic document consisting of replies from the latest questionnaire on state trading enterprises, and that they decide in 1962 whether or not the document should be reviewed.

### Disposal of Surplus Agricultural Products

To prevent the disposal of surplus agricultural products from unduly disturbing world markets, and to insure orderly marketing of those products, the Contracting Parties—at their Ninth Session in 1954–55—adopted a resolution urging contracting parties that are planning to dispose of such surplus stocks to consult with the principal suppliers of the commodities involved, and with any other interested parties.

At their 11th and 12th Sessions the Contracting Parties discussed the experience of certain contracting parties with the disposal of surpluses by other governments, as well as the results of the consultations on the problem. At their 13th Session the Contracting Parties expressed concern about the effects of the U.S. surplus-disposal program. Several contracting parties stated that the U.S. surplus-disposal program had seriously affected their markets and that continuation by the United

States of high price supports would merely lead to a perpetuation of the surplus-disposal problem. Because of the continuing nature of the problem, the matter was placed on the agenda for discussion at the 15th Session.

At their 15th Session in October–November 1959 the Contracting Parties discussed the progress that had been made since the 13th Session in solving the surplus-disposal problem. They concluded that—despite the excellent progress that had been made—the problem of surplus disposal was a continuing one, and that the matter should therefore be placed on the agenda for discussion at the 17th Session.

### Nomination of Officers of the Interim Coordinating Committee for International Commodity Arrangements

The Interim Coordinating Committee for International Commodity Arrangements (ICCICA) was established in 1947, pursuant to a resolution of the United Nations Economic and Social Council. Its activities consist principally of preparing yearly statements about intergovernmental collaboration in the field of commodity problems. In some instances, however, the Committee advises the Secretary-General of the United Nations on specific problems in the field of intergovernmental commodity collaboration. The Committee consists of a chairman, nominated by the Contracting Parties to the General Agreement; a representative of the Food and Agriculture Organization; and two other members. The term of office of the chairman is determined by the Contracting Parties; the term of office of each of the other three members is indefinite.

At their 15th Session the Contracting Parties unanimously nominated Mr. L. K. Jha, of India, to succeed Sir Edwin McCarthy, of Australia, to be chairman of the Committee for a period of 1 year.[67]

### Problems Related to Trade in Primary Commodities

At their Ninth Session in 1954–55 the Contracting Parties established a working party to consider and report on proposals for intergovernmental action designed to settle problems that arise with respect to international trade in primary commodities.[68] When the working party submitted its report to the Contracting Parties, it also submitted a draft of an agreement designed to facilitate the preparation and conclusion of intergovernmental commodity arrangements. The Contracting Parties

[67] Mr. Jha had served as Chairman of the Contracting Parties at their 12th and 13th Sessions.

[68] The United States did not accept membership on the working party. At the 10th and 11th Sessions the United States took the position that an additional agreement in this field was neither necessary nor desirable, and that the United States did not intend to participate in a convention on commodity arrangements should such a convention be concluded.

discussed the report and the draft agreement and, as a result of their discussion, revised the latter.

At their 10th Session the Contracting Parties discussed at length the revised draft agreement on commodity arrangements. Since they continued to disagree on the provisions of the agreement, the Contracting Parties authorized the Intersessional Committee—should it appear that agreement could be reached—to establish a subcommittee to prepare a final draft agreement for consideration at the 11th Session.

As no agreement was reached before the 11th Session, the Contracting Parties at that session reconstituted the working party on commodity problems and directed it to consider alternative approaches to the problems. On the recommendation of the working party, the Contracting Parties adopted a resolution that provided for consideration of problems related to international trade in primary commodities. Under the terms of the resolution, which recognized the competence of other international organizations in the field of primary commodities, the Contracting Parties decided to discuss at future sessions the trends and developments in international trade in primary commodities, as outlined by the chairman of ICCICA in his annual report and as indicated by consultations held under the various provisions of the General Agreement.

The report of the chairman of ICCICA at the 12th Session in 1957 devoted special attention to the need for action with respect to the wide fluctuations in the prices of primary commodities. The review of the report by the Contracting Parties at a plenary session centered on (1) expansion of the trade of less developed countries at a slower rate than that of industrialized countries; (2) the effect of violent short-run fluctuations in the prices of primary products on the expansion of international trade; and (3) the widespread protection of agricultural products in international trade. As a result of the discussion the Contracting Parties appointed a panel of experts to examine international-trade trends and their implications, with special reference to the three topics mentioned above. The panel was asked to submit a report of its findings at the 13th Session.

The report of the chairman of ICCICA at the 13th Session in 1958 was similar in scope to that presented at the 12th Session. The ensuing discussion by the Contracting Parties concerned both the report of the chairman of ICCICA and the report by the panel of experts. The report by the panel of experts examined both short-term fluctuations and long-term changes in international trade and their impact on both industrial and nonindustrial countries.[69] The Contracting Parties agreed to restrict their future activities in the commodities field to those directly

[69] See Contracting Parties to GATT, *Trends in International Trade; A Report by a Panel of Experts,* Sales No.: GATT/1958–3, Geneva, 1958.

related to their competence and responsibilities under the General Agreement and, in future reports, to concentrate on the impact of commodity problems upon international trade. Before concluding their discussion, the Contracting Parties appointed a working party to prepare an annual review of the problems related to the trade in primary commodities.

The working party submitted its first annual review to the Contracting Parties at their 15th Session in October–November 1959. In preparing its report the working party had examined the report of the chairman of ICCICA and certain relevant material published by other international organizations, and had been assisted by representatives of the United Nations and the International Monetary Fund. After discussing the report of the chairman of ICCICA and the report of the working party, the Contracting Parties took note of both reports,[70] reconstituted the working party, and directed it to prepare a report for submission at the 17th Session.

### Expansion of International Trade

At the 13th Session in 1958 many contracting parties agreed on the importance of attempting to overcome the obstacles to the expansion of international trade. They agreed that these obstacles were in part a result of national agricultural policies, and some contracting parties expressed concern over obstacles to the expansion of the export trade of the less developed countries. To examine these problems more closely and to contribute to the attainment of the objectives of the General Agreement, the Contracting Parties appointed three committees to study the entire problem of the expansion of international trade. Committee I was assigned the task of preparing for a future round of tariff negotiations;[71] committee II was directed to study the problems arising out of the widespread use of nontariff measures to protect agriculture, and the resultant effects on international trade; and committee III was authorized to consider other obstacles to the expansion of trade, with special reference to the problems of the less developed countries.

At their 14th Session in May 1959 the Contracting Parties approved arrangements for committee II to consult with all contracting parties regarding their use of nontariff measures to protect agriculture or to support the incomes of agricultural producers, as well as the effects of such measures on international trade. Committee II was expected to present its first report on the consultations at the 16th Session in 1960. The Contracting Parties directed committee III to examine various proposals put forward by less developed countries to study important commodities in which such countries are interested.

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[70] For the complete text of the working party's report, see Contracting Parties to GATT, *Basic Instruments . . .*, 8th supp., Sales No.: GATT/1960–1, Geneva, 1960, pp. 76–89.

[71] See the section of this chapter on tariffs and tariff negotiations.

At the 15th Session in October–November 1959, committees I, II, and III reported to the Contracting Parties on developments within their respective fields of inquiry. Committee I recommended rules and procedures for the tariff Conference scheduled to begin on September 1, 1960. The committee also agreed on the procedure for the negotiations with members of the European Economic Community pursuant to article XXIV of the General Agreement. Committee II, which had suggested at the 14th Session that all contracting parties consult with the committee on their individual agricultural policies by the 16th Session, noted that consultations had been held in September 1959, and that further consultations were scheduled to take place during October–November 1959, and at the beginning of 1960. Committee II stated that it would submit a report based on these consultations to the Contracting Parties at their 16th Session. It also stated that it would continue—through 1960—its analysis of the effects on international trade of nontariff protection of agricultural commodities, as well as the extent to which the existing rules of the General Agreement promote the expansion of international trade as contemplated by article I. The report of committee III, which was based on information submitted to it by contracting parties, considered trade restrictions on a number of products, and noted a number of obstacles to the expansion of the trade of less developed countries. The Contracting Parties adopted the reports of committees I and III.[72]

At their 16th Session in May–June 1960, the Contracting Parties considered two matters that committee I had examined—Poland's request that it be permitted to participate in the 1960–61 tariff Conference,[73] and the committee's examination of the common external tariff of the European Economic Community to determine the extent to which it conforms with the provisions of article XXIV:5(a) of the General Agreement. The Contracting Parties decided to defer consideration of the latter question to a later session.

At the 16th Session of the Contracting Parties, committee II announced that since September 1959 it had concluded consultations with a total of 29 countries. The committee also submitted an interim report to the Contracting Parties describing the types of agricultural measures employed by the countries with which it had consulted and giving the committee's tentative conclusions as to the effects of such measures on international trade. The committee noted that it would continue its examination of the impact of these measures, that the examination

[72] For the complete text of the reports of committees I, II, and III, see Contracting Parties to GATT, *Basic Instruments . . .*, 8th supp., Sales No.: GATT/1960–1, Geneva, 1960, pp. 101–141.

[73] For a discussion of Poland's participation in the 1960–61 tariff Conference, see the section of this chapter on proposed accessions to the General Agreement.

would be conducted on a commodity basis with particular reference to principal suppliers and principal markets, and that it would appoint a panel of experts to study changes in the levels of agricultural protection.

Committee III submitted another progress report to the Contracting Parties at their 16th Session. The committee noted that it had continued its analysis of the products of less developed countries and of measures affecting exports of such commodities. Inasmuch as many of these measures operated to restrict trade, the committee recommended that they be removed or modified as soon as possible. The Contracting Parties took note of the committee's report and approved a proposal that it continue its study.

### Restrictive Business Practices

In 1953 the United Nations Economic and Social Council recognized the detrimental effects of restrictive business practices in international trade on economic development, employment, and international trade, and adopted a resolution stating that both national action and international cooperation are necessary to deal with such practices. At the Ninth Session of the Contracting Parties in 1954–55 the delegations of Denmark, Norway, and Sweden—in response to this resolution—proposed that the Contracting Parties revise the General Agreement to provide for the control of restrictive business practices in international trade. However, because of a procedural misunderstanding between the Contracting Parties and the United Nations Economic and Social Council, the Contracting Parties postponed consideration of the proposal.

At the 11th Session of the Contracting Parties in 1956, Norway and West Germany made individual proposals with respect to the control of restrictive business practices that affect international trade. West Germany proposed that the Contracting Parties recognize that such practices may have adverse effects on trade between various contracting parties, and that contracting parties engaged in them be required to consult with other interested contracting parties and to take appropriate legal action to eliminate them. The Norwegian delegate likewise proposed that the Contracting Parties recognize the adverse effects of restrictive business practices. He suggested that the Contracting Parties establish a working party to consider whether they should undertake to control such practices. Should the working party so recommend, he suggested that it also recommend at the 12th Session the appropriate provisions that should be added to the General Agreement, or included in a supplemental agreement, to establish controls over restrictive business practices. After discussion the Contracting Parties referred the West German and Norwegian proposals to the Intersessional Committee, with instructions that it submit a report and recommendations to them at their 12th Session.

The members of the Intersessional Committee were unable to agree on whether they should recommend the establishment of such a working party, and so informed the Contracting Parties at their 12th Session in 1957. Since there appeared to be no consensus on this question, the Contracting Parties again referred the problem to the Intersessional Committee, with instructions that it decide whether a working party or a panel of experts should be established, or whether the problem should again be referred to the Contracting Parties at their 13th Session. The Intersessional Committee again referred the matter to the Contracting Parties.

At their 13th Session in 1958 the Contracting Parties adopted a resolution recognizing that the expansion of world trade may be hampered by the activities of international cartels and trusts. The Contracting Parties also directed their Executive Secretary to appoint a group of experts to study the problem and recommend whether the Contracting Parties should endeavor to deal with restrictive business practices in international trade. Should the group of experts decide in the affirmative, it would be requested to determine how the Contracting Parties might best deal with the problem. The panel of experts was requested to submit its report for consideration by the Contracting Parties at a future session.

In June 1959 the Contracting Parties distributed the report of the panel of experts. Later, at their 15th Session in October–November 1959, the Contracting Parties placed the matter on the agenda for consideration at the 16th Session. Individual contracting parties were urged, in the meantime, to submit their comments on the matters contained in the panel's report.

Early in their 16th Session in May–June 1960, the Contracting Parties decided that, to provide time for further study of the panel's report and the comments made by the contracting parties, formal consideration of the matter should be postponed until the 17th Session. The Contracting Parties therefore established a working party to examine the matter. The working party was directed to meet during the first week of the 17th Session and to submit its report to the Contracting Parties shortly thereafter.

### Antidumping and Countervailing Duties

At the Ninth Session of the Contracting Parties in 1954–55, Norway suggested that the General Agreement be amended to direct the proposed Organization for Trade Cooperation to work toward the standardization of rules governing the imposition of antidumping and countervailing duties. Since that time the Contracting Parties have been engaged in

a study of such duties as they are applied by individual contracting parties.[74]

At their 11th Session in 1956 the Contracting Parties directed their Secretariat—with the assistance of experts from the governments concerned—to analyze the information that had been made available by contracting parties, and to submit a report on antidumping legislation to the Intersessional Committee or to the Contracting Parties at their 12th Session. At the beginning of the 12th Session in 1957 the Secretariat submitted a comprehensive report on the subject to the Contracting Parties. After discussing the report the various contracting parties agreed to submit to the Secretariat their individual views on what further action should be taken with respect to antidumping and countervailing duties. The Contracting Parties instructed the Secretariat to analyze these views and to submit a summary of them at the 13th Session in 1958.

Eight countries submitted to the Secretariat their views and their suggestions for further study of the problem of antidumping and countervailing duties. The views included a suggestion that all changes in national legislation with respect to antidumping and countervailing duties be reported to the Secretariat, a proposal that the Contracting Parties endeavor to agree on an interpretation of the provisions of article VI,[75] and a proposal for procedures that contracting parties be required to follow before imposing antidumping and countervailing duties. The Secretariat submitted a summary of these proposals to the Contracting Parties at their 13th Session. At that session the Norwegian and Swedish delegates proposed that a group of governmental experts be convened before the opening of the 14th Session to exchange information on existing legislation relating to antidumping and countervailing duties. The Contracting Parties approved the proposal and authorized the Executive Secretary to convene a group of experts.

The group of experts, which met in Geneva in April 1959, submitted its report to the Contracting Parties at their 14th Session in May 1959. In its report the group noted that, because of the vastness of the subject, it had devoted its entire attention to antidumping duties and had deferred until a later date its study of countervailing duties. The group of experts reached an understanding on various problems relating to the definition of terms used in article VI—for example, the use of the term

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[74] For the earlier history of the Norwegian proposal, see *Operation of the Trade Agreements Program*, 10th report, pp. 48–49.

[75] Art. VI of the General Agreement condemns dumping if it causes or threatens material injury to an established industry, or materially retards the establishment of an industry, in the territory of another contracting party. Art. VI also provides that a country so injured or threatened with injury may protect itself against dumping or injurious subsidization by imposing antidumping or countervailing duties, but prohibits the excessive or unwarranted use of such duties.

"industry" in relation to "injury"; the definition of "material injury" and of "export price"; and the determination of "normal value." The Contracting Parties approved the group's report and adopted its recommendation for subjects to be discussed at a later date. The Contracting Parties also directed the Secretariat to collect detailed information on current practices in antidumping cases and requested that this information, together with the additional subjects, be discussed at a later date.

The next discussion of antidumping and countervailing duties took place at the 16th Session of the Contracting Parties in May–June 1960, at which time the panel of experts submitted its second report. After discussion the Contracting Parties adopted the panel's report and approved its recommendations. In its report the panel of experts proposed that the contracting parties transmit to the Secretariat any information relating to changes in their legislation concerning antidumping or countervailing duties. The Secretariat would, in turn, inform the individual contracting parties of the notifications it had received. The Secretariat would then annually submit to the Contracting Parties a compilation of antidumping measures and countervailing duties in force, as well as changes which had occurred during the year. The Contracting Parties agreed that the two reports of the panel of experts would serve as a guide for individual contracting parties in applying article VI of the General Agreement, and placed the matter on the agenda for discussion at the 17th Session.

### Article XX

Article XX(j) of the General Agreement provides an exception to the other provisions of the agreement by permitting the adoption of measures essential to the acquisition or distribution of products in general or local short supply, provided any such measures are consistent with the principle that all contracting parties are entitled to an equitable share of the international supply of such products, and provided any measures which are inconsistent with the other provisions of the General Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist. Article XX(j) also provides that the Contracting Parties shall review the need for this subparagraph not later than June 30, 1960.

At the 16th Session of the Contracting Parties in May–June 1960 the U.S. delegation proposed that, since the post-World War II conditions that gave rise to the adoption of the provisions now contained in article XX(j) have ceased to exist, its provisions be terminated. A number of other delegations, however, felt that the provisions of article XX(j) should be retained to meet possible emergency situations in the future. Accordingly, on June 3, 1960, the Contracting Parties adopted a decision to retain the provisions of article XX(j), subject to review not later than June 30, 1965.

## Trade and Customs Regulations

Between June 1951 and May 1955 the International Chamber of Commerce adopted and submitted to the Contracting Parties a number of resolutions relating to the reduction of trade barriers. The resolutions dealt with customs treatment of commercial samples and advertising materials, documentary requirements for the importation of goods, consular formalities, valuation of goods for customs purposes, the nationality of imported goods, formalities connected with the administration of quantitative restrictions on imports, and the adoption of a set of guiding principles for an international agreement designed to prevent the misuse of marks of origin.[76]

As a result of a working party's consideration of these resolutions the Contracting Parties adopted a draft convention on the importation of samples and advertising material, a code of standard practices relating to documentary requirements for the importation of goods, a code of standard practices relating to consular formalities, and a resolution regarding the application of import- and export-licensing restrictions to existing contracts. The Contracting Parties also recommended that individual contracting parties abolish their requirements for consular invoices and consular visas by December 31, 1956, and requested that they report each year on the progress they had made in doing so.[77]

### *Consular formalities*

At their 8th, 9th, and 10th Sessions the Contracting Parties discussed the question of consular formalities. At the 11th Session in 1956 it was apparent that individual contracting parties would not be able to abolish their consular formalities completely by the final date agreed upon at the 10th Session. The Contracting Parties therefore decided not to establish any new deadline for abolishing such formalities, but reaffirmed their previous recommendation that contracting parties continue to work toward the elimination of the consular formalities they still maintained. At their 12th Session in 1957 the Contracting Parties adopted a recommendation that, as a minimum, contracting parties follow certain suggested practices that would simplify consular procedures and insure fairness in administration.

At the 13th Session in 1958 the Chairman of the Contracting Parties announced that Turkey had declared that it would abolish consular fees in the near future. The Contracting Parties instructed their Executive Secretary to follow the progress made by other contracting parties in eliminating their consular formalities.

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[76] For a detailed discussion of the resolutions adopted by the International Chamber of Commerce in June 1951, see *Operation of the Trade Agreements Program*, 6th report, pp. 61–64.

[77] See *Operation of the Trade Agreements Program*, 7th report, pp. 89–94.

At their 16th Session in May–June 1960 the Contracting Parties noted that under their recommendation of 1952, as amended in 1957, all contracting parties that maintain consular formalities are required to report to the Secretariat, by September 1 of each year, on the progress they have made in eliminating such formalities. The Contracting Parties requested those contracting parties that had not submitted such reports for the previous year to do so as soon as possible, and placed the matter on the agenda for the 17th Session.

***Marks of origin***

At their 10th Session in 1955 the Contracting Parties considered a resolution, submitted by the International Chamber of Commerce, relating to the adoption of a set of guiding principles for an international arrangement designed to prevent the misuse of marks of origin. The Contracting Parties did not study the resolution in detail at their 10th Session, but agreed to do so at a later session.

At their 13th Session in 1958 the Contracting Parties established a working party to examine a draft recommendation on marks of origin that had been prepared by the Secretariat, primarily on the basis of the recommendations submitted by the International Chamber of Commerce. Shortly before the end of the 13th Session the working party submitted its report and a draft recommendation to the Contracting Parties. The recommendation consisted of 16 rules designed to reduce the difficulties and inconveniences which result from marking regulations. On November 21, 1958, the Contracting Parties adopted the working party's report and approved its recommendation. Under the terms of the recommendation, contracting parties are to report changes in legislation, rules, and regulations relating to marks of origin by September 1 of each year. In order to comply with U.S. law, the U.S. delegate made several reservations when he approved the recommendation on behalf of his country.

On November 6, 1959, during their 15th Session, the Contracting Parties circulated the first report of changes by contracting parties in legislation, rules, and regulations relating to marks of origin. The report indicated that the following countries had notified the Contracting Parties of such changes: Czechoslovakia, Denmark, Finland, France, the Federation of Rhodesia and Nyasaland, Sweden, and the United States.

***Nationality of imported goods***

At their 8th, 9th, and 10th Sessions the Contracting Parties continued their discussions on the nationality of imported goods. At their 11th Session in 1956 they agreed to alter the rules they had recommended with respect to proof of origin, as proposed to them by the International Chamber of Commerce at the 10th Session, but postponed until the 12th

Session their decision on whether to establish a common definition of the nationality of imported goods. At their 12th and 13th Sessions in 1957 and 1958 the Contracting Parties postponed further consideration of the matter until a later session.

At their 15th Session in October–November 1959 the Contracting Parties noted that discussions on the nationality of imported goods were still in progress within the European Economic Community and would probably continue for some time. They therefore adopted the proposal of the West German delegate that—to the extent that it involves the General Agreement—discussion of the matter be postponed indefinitely.

***Facilities for temporary admission of professional equipment and packing materials***

At their 13th Session in 1958 the Contracting Parties considered a proposal, submitted by the International Chamber of Commerce, that the Contracting Parties adopt an international convention relating to temporary and duty-free admission of professional equipment and packing materials. The convention had already entered into force for several countries. Because of the pressure of other business the Contracting Parties deferred discussion of the proposal until their 14th Session. In May 1959, at that session, they agreed to postpone further consideration of the proposal pending receipt of draft conventions relating to certain professional equipment and packing materials which were being drawn up by the Brussels Customs Cooperation Council.

At the 15th Session in October–November 1959 the Customs Cooperation Council submitted the draft conventions to the Contracting Parties. Following the suggestion of the Secretariat, the Contracting Parties agreed to appoint a panel of experts to examine the conventions and to make recommendations by the 16th Session. The Contracting Parties also accepted the proposal of the U.S. delegate that the panel widen its terms of reference to include not only the temporary admission of professional equipment and packing materials but also the temporary admission of motion picture and television equipment.

At the 16th Session in May–June 1960 the panel of experts reported to the Contracting Parties that they had completed their examination of the conventions and their recommendations on them. The Contracting Parties noted that individual contracting parties could sign the nearly completed convention on packing materials or withhold their adherence until the convention was fully completed. The convention on motion picture and television equipment will be opened for signature at a future session of the Contracting Parties.

## STATUS AND ADMINISTRATION OF THE GENERAL AGREEMENT

### Definitive Application

Article XXVI of the General Agreement provides that the agreement shall enter into force when it has been accepted by contracting parties that account for 85 percent of the total foreign trade of all contracting parties. The General Agreement, however, has never definitively entered into force under the provisions of article XXVI. It has been accepted pursuant to a protocol of provisional application, which requires that the signatories apply parts I and III of the agreement fully, and part II (which contains most of the trade rules) to the fullest extent not inconsistent with domestic legislation in effect on a specified date. Originally, if contracting parties desired to accept the agreement definitively pursuant to article XXVI, they were required to immediately modify domestic legislation that was inconsistent with the provisions of the agreement.

Although the Contracting Parties have desired definitive acceptance of the General Agreement at as early a date as possible, they have recognized that it would not be practicable for certain contracting parties to bring their domestic legislation into conformity with part II of the agreement immediately after such an acceptance. To surmount this obstacle, the Contracting Parties—at their Ninth Session in 1954–55—prepared a resolution which provided that an acceptance of the agreement pursuant to article XXVI would be valid even if accompanied by a reservation that legislation presently acceptable under the provisional application of the agreement would remain acceptable under the definitive application of the agreement. The resolution provided, however, that the Contracting Parties would periodically review the progress that contracting parties had made in bringing such "excepted" legislation into conformity with the General Agreement. The resolution entered into force during the 11th Session in 1956, after it had been accepted by all the contracting parties.

At their next discussion of the question of definitive acceptance, during their 16th Session in May–June 1960, the Contracting Parties again urged contracting parties that had not deposited their instruments of acceptance under article XXVI to do so as soon as possible. The Contracting Parties also agreed to include the matter on the agenda of the 17th Session.

### Protocols of Amendment, and Agreement on the Organization for Trade Cooperation

At their Ninth Session in 1954–55 the Contracting Parties conducted a review of the General Agreement to determine to what extent it should be modified in order to attain its objectives more effectively. As a result

of the review the Contracting Parties proposed a series of amendments to the agreement, and negotiated an Agreement on the Organization for Trade Cooperation (OTC).[78] The proposed amendments (which were incorporated in three protocols), as well as the Agreement on the Organization for Trade Cooperation, were then submitted to the contracting parties for acceptance. The amending protocols are of three types: (1) Technical changes in certain of the general provisions; (2) minor technical changes in the general provisions designed to bring the General Agreement into conformity with the proposed OTC;[79] and (3) substantive changes in the preamble and parts II and III of the General Agreement. On October 7, 1957, shortly before the beginning of the 12th Session, the third protocol, amending the preamble and parts II and III, entered into force for two-thirds of the contracting parties. Since several contracting parties had not accepted the protocol amending the preamble and parts II and III of the General Agreement, the Contracting Parties at their 13th Session in 1958 extended the deadline for signing the protocol until 2 weeks after the opening of the 15th Session in October 1959.

At the end of the 15th Session in November 1959 a total of 20 contracting parties had definitively signed the Agreement on the Organization for Trade Cooperation, and 6 contracting parties had signed it ad referendum or subject to ratification or approval. The agreement, as well as the first and second protocols of amendment, had not become effective by that date.[80]

At their 15th Session in October–November 1959 the Contracting Parties noted that the protocols amending part I and articles XXIX and XXX and the protocol of organizational amendments could not enter into force until they had been signed by the required number of contracting parties. They also noted that the protocol amending the preamble and parts II and III had not been accepted by a number of contracting parties. The Contracting Parties therefore extended the closing date for signature of these protocols until 2 weeks after the beginning of the 17th Session, which was scheduled for October 1960.

### Rectification, Modification, and Consolidation of Schedules

Tariff concessions negotiated under the General Agreement are incorporated into the agreement by means of the schedules of tariff concessions. A schedule is a list of all the concessions negotiated—pursuant to the provisions of the General Agreement—by one particular contracting party with other contracting parties. Each such country schedule

[78] See *Operation of the Trade Agreements Program*, 8th report, pp. 9–26.

[79] Protocol of organizational amendments.

[80] The first protocol requires acceptance by all the contracting parties; the second will come into force concurrently with the Agreement on the Organization for Trade Cooperation.

contains, for each product on which the contracting party has granted a concession, the number under which the product is classified in the tariff of the particular contracting party, a description of the product, and the rate of duty applicable to it. Article II of the General Agreement makes each schedule of concessions an integral part of the agreement.

From time to time the Contracting Parties find that the text of the schedules should be modified formally to take into account changes that have, in fact, become effective by action of the Contracting Parties or in accordance with procedures established by the Contracting Parties.[81] Accordingly, they prepare protocols of rectifications and modifications, which list the changes necessary to bring the schedules up to date. The protocols, which are then submitted to the individual contracting parties for acceptance, formally enter into force when they have been accepted by all the contracting parties. However, since the modifications or rectifications contained in the protocols have already been placed in effect by action of the Contracting Parties, there is slight incentive for individual contracting parties to accept them formally.

At the close of the period covered by this report the Fifth, Sixth, and Seventh Protocols of Rectifications and Modifications, prepared by the Contracting Parties and submitted to the contracting parties during the period 1955–57, had not yet entered into force, but the concessions listed in them had been placed in effect by the contracting parties concerned.

At their 13th Session in 1958 the Contracting Parties adopted a working party recommendation that an Eighth Protocol of Rectifications and Modifications be opened for signature after the 13th Session and that a Ninth Protocol be opened for signature on the first day of the 14th Session in 1959. At the 14th Session the opening date for signature of the Ninth Protocol was postponed until July 15, 1959.

At their 10th Session in 1955 several of the contracting parties expressed serious concern over the complexity of the schedules of concessions in the General Agreement. They pointed out that the original concessions and the subsequent rectifications and modifications were scattered among more than 20 legal instruments and several GATT documents. The Contracting Parties, therefore, explored the possibility of preparing a set of up-to-date, consolidated schedules. Toward the close of the 10th Session they adopted a tentative plan to prepare such consolidated schedules. Because so many contracting parties were engaged in tariff revisions, however, no definite plan had been formulated by the close of the 13th Session in 1958. At that session the Contracting Parties agreed not to establish a time limit for submission of draft consolidated

[81] Changes in the schedules may be substantive or nonsubstantive. An example of a substantive change is the modification of a rate of duty pursuant to art. XXVIII of the General Agreement; an example of a nonsubstantive change is the correction of a textual spelling error.

schedules by contracting parties that had not yet submitted such schedules.

At the 15th Session of the Contracting Parties in October–November 1959, the Executive Secretary again proposed an alternative procedure of "certification," which would avoid the delays involved in the entry into force of protocols of rectification and modification of the schedules of the General Agreement. The proposal had been approved by the Contracting Parties as early as the 11th Session in 1956 but had not become effective because there had not been unanimous acceptance of the protocol amending part I and articles XXIX and XXX. In essence the proposal called for discontinuing the practice of preparing protocols of rectification and modification and, instead, using "certificates," as provided for in the revised article XXX. These certificates would bring together the rectifications and modifications of the schedules, but would not enter into force until the revised article XXX had been accepted by all contracting parties. This procedure would make it possible for contracting parties to accept changes without authorizing plenipotentiaries to sign the protocols. The procedure would also make it possible for contracting parties to accept changes at the end of each session. In the past such acceptance has been delayed for as long as 6 years.

The Contracting Parties instructed the Executive Secretary to proceed in the future in accordance with his proposal. At their 16th Session in May–June 1960 the Contracting Parties formally approved the proposal.

### Intersessional Administration of the Agreement

The General Agreement does not specifically provide for any organization for its administration. Article XXV provides that the contracting parties shall meet from time to time to consider matters arising out of the application of the agreement, but does not provide any mechanism for administering the agreement during the period when the Contracting Parties are not in session. As a result of discussions at their Sixth Session in 1951, the Contracting Parties established—on an experimental basis—an ad hoc Committee for Agenda and Intersessional Business to deal with matters that might require immediate action during the period between the sessions of the Contracting Parties. This arrangement for intersessional administration of the agreement was modified at the Ninth Session in 1954–55 and the ad hoc committee was renamed the Intersessional Committee.

When the Contracting Parties created the Intersessional Committee it was their intention to make it an effective body for assisting the Contracting Parties in obtaining the objectives of the General Agreement. However, except on matters of secondary importance, the Contracting Parties did not delegate powers of decision to the Intersessional Com-

mittee. This fact, together with the increasing workload of the Contracting Parties, prompted them to decide—at their 13th Session in 1958—to hold a spring and an autumn session of the Contracting Parties each year and to alter the functions of the Intersessional Committee.

At their 13th Session in 1958 the Contracting Parties adopted a working party recommendation delineating the functions of the Intersessional Committee. This recommendation permits the Intersessional Committee to deal with matters that have been specifically referred to it by the Contracting Parties, matters arising under paragraph 4 of article XXVIII and under sections A, C, and D of article XVIII, and urgent matters that may arise during intersessional periods and that have not been foreseen by the Contracting Parties. The Contracting Parties decided that the Intersessional Committee will be composed of 17 members elected at the last session in each calendar year. Their election is to be effected in such a manner as to insure that the Committee will be representative of the broad geographical areas to which the contracting parties belong and of the different degrees of economic development and divergent economic interests that are to be found among them. The Intersessional Committee is to meet in Geneva on the call of the Executive Secretary.[82] The Contracting Parties proceeded, forthwith, to elect an Intersessional Committee.

On November 19, 1959, during their 15th Session, the Contracting Parties elected an Intersessional Committee to serve from the end of the 15th Session until the beginning of the 17th Session. The Committee is composed of the following contracting parties: Belgium, Canada, Chile, Cuba, Denmark, France, West Germany, Ghana, India, Italy, Japan, New Zealand, Pakistan, Peru, Turkey, the United Kingdom, and the United States.

### Continued Application of Schedules, and Article XXVIII Negotiations

Since the signing of the General Agreement in 1947 and the negotiation of the first schedules of concessions, the Contracting Parties have agreed for successive periods of time not to modify, under the provisions of article XXVIII, the concessions that individual contracting parties have granted in their respective schedules. At the end of each of these periods the Contracting Parties have made specific arrangements to permit contracting parties to modify their schedules.[83]

The last of such periods was to terminate on December 31, 1957.[84]

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[82] For intersessional procedures, as amended, see Contracting Parties to GATT, *Basic Instruments . . .*, 7th supp., Sales No.: GATT/1959–1, Geneva, 1959, pp. 7–11.

[83] For further discussion of these arrangements, see *Operation of the Trade Agreements Program*: 7th report, pp. 80–83; 8th report, pp. 73–74.

[84] This date was specified in the Contracting Parties' Declaration of Mar. 10, 1955.

In anticipation of the ending of this period, the Contracting Parties on November 28, 1957—at their 12th Session—adopted another Declaration on the Continued Application of Schedules. This declaration applied to those countries for which the revised article XXVIII has not become effective. Those countries for which the revised article XXVIII is effective are subject to the provisions of that article. The deadline for modification of schedules under both the declaration and the revised article XXVIII was extended from December 31, 1957, to March 31, 1958, for those contracting parties that notified the Contracting Parties by December 31, 1957, of their intention to enter into negotiations for modification of concessions under the revised article XXVIII in the last declaration. At its April 28, 1958, meeting the Intersessional Committee extended the terminal date for completing authorized negotiations to the end of the 13th Session, and the Contracting Parties subsequently extended this date to the close of the 15th Session in 1959. Under the revised article XXVIII, the new period for the continued application of schedules will terminate on December 31, 1960.[85]

### Ministerial Meetings at Sessions of the Contracting Parties

During their 11th Session in 1956 the Contracting Parties agreed that meetings of foreign ministers of the contracting parties, held in the early stages of succeeding sessions, would contribute to more effective operation of the General Agreement. Such meetings at the ministerial level took place at the 12th and 13th Sessions.

During the first days of the 15th Session—October 26 through 29, 1959—the foreign ministers and ministerial representatives of the contracting parties took part in the meetings of the Contracting Parties. Their discussions at these meetings related chiefly to trends in, and expansion of, international trade, methods of promoting the effectiveness of the General Agreement, and the proposal by the head of the U.S. delegation, Mr. C. Douglas Dillon, that a new round of tariff negotiations be held in 1960–61.

### Election of Chairman and Vice Chairmen of the Contracting Parties

At their 13th Session in 1958 the Contracting Parties amended their rules of procedure with respect to the time of election and the term of office of the Chairman and Vice Chairmen of the Contracting Parties. At previous sessions these officers had been elected during the first 7 days of a plenary session and had immediately assumed office, which they

[85] The revised art. XXVIII:1 provides for successive, automatically renewable, 3-year periods—beginning Jan. 1, 1958—during which contracting parties undertake to refrain from using, except at the end of such periods, the right provided for in art. XXVIII to modify or withdraw existing tariff concessions.

retained until their successors were elected. The amended rules provide that the Chairman and Vice Chairmen shall be elected during the last session of the Contracting Parties in each calendar year, and that they shall hold office from the end of that session to the end of the last session in the following calendar year.[86] As a result of these changes the Chairman and Vice Chairmen for the 12th Session retained their offices during the 13th Session.

Toward the end of their 15th Session in October–November 1959 the Contracting Parties elected Mr. E. P. Barbosa da Silva, of Brazil, as Chairman, and Mr. Toru Haguiwara, of Japan, and Dr. W. P. H. van Oorschot, of the Netherlands, as Vice Chairmen. Their terms of office began at the end of the 15th Session, and will terminate at the end of the 17th Session.

### Fellowship Program

At their 10th Session in 1955 the Contracting Parties tentatively approved a training program to familiarize young government officials of the contracting parties with the problems dealt with by the GATT Secretariat in administering the agreement, and authorized the Executive Secretary to place it in effect on an experimental basis.[87] At the 11th Session the Intersessional Committee, the Secretariat, and the contracting parties concerned reported their satisfaction with the program that had been conducted in the interim between the 10th and 11th Sessions. As a result of these reports, the Contracting Parties unanimously endorsed the training program as one of the positive achievements of the General Agreement, and extended it into 1957. Because of the success of the program, the Contracting Parties increased the number of trainees from 6 to 10, effective for the second half of 1957. Financing of the increased number of trainees was made possible by the United Nations Technical Assistance Administration, which granted additional fellowships.

At their 12th Session the Contracting Parties authorized the Executive Secretary to accept trainees from countries that are not contracting parties to the General Agreement. As they had in the 12th and 13th Sessions, the Contracting Parties at their 15th Session in October–November 1959 extended the training program for an additional year.

### Financial and Budgetary Matters

At their 15th and 16th Sessions the Contracting Parties approved the audit of the 1958 accounts and the report of the working party on the financing of the 1959 budget. They also adopted an estimated budget of

[86] At their 13th Session in 1958 the Contracting Parties decided to hold two sessions each year.

[87] See *Operation of the Trade Agreements Program*, 10th report, pp. 53–54.

$677,610 for 1960, the U.S. contribution to which is $120,332. Like the budget estimates for the past 7 years, the estimate for 1960 was higher than that for the preceding year. At the 15th and 16th Sessions the Contracting Parties also adopted the following proposals made by the Executive Secretary: (1) That the Contracting Parties reclassify cost-of-living allowances for their Geneva-based personnel to harmonize conditions of employment for such personnel with those of other organizations in the United Nations family; (2) that the Contracting Parties authorize a 5-percent salary increase for certain personnel of the Secretariat; (3) that the Contracting Parties authorize certain changes in personnel allocation (the financial result of which is expected to be negligible); and (4) that should it be impossible to finance the additional expenses involved by savings within the 1960 budget, the Contracting Parties authorize the use of funds from their working capital.

*Chapter 3*

# *Actions of the United States Relating to Its Trade Agreements Program*

## U.S. TRADE-AGREEMENT OBLIGATIONS

### Trade Agreements in Force on June 30, 1960

On June 30, 1960, the United States was a party to trade agreements with 43 countries, the agreements having been negotiated under the authority of the Trade Agreements Act, as amended and extended.[1] These countries may be considered in two groups.

1. The first group consists of 35 countries that were contracting parties to the General Agreement on Tariffs and Trade on the aforementioned date.[2] These countries, together with the dates on which the United States gave effect to the tariff concessions that it had initially negotiated with them, are listed below:

| *Country* | *Date* | *Country* | *Date* |
|---|---|---|---|
| Australia | Jan. 1, 1948 | Finland[1] | May 25, 1950 |
| Austria | Oct. 19, 1951 | France[1] | Jan. 1, 1948 |
| Belgium[1] | Jan. 1, 1948 | Germany (Federal Republic) | Oct. 1, 1951 |
| Brazil[1] | July 31, 1948 | Ghana[2] | Jan. 1, 1948 |
| Burma | July 30, 1948 | Greece | Mar. 9, 1950 |
| Canada[1] | Jan. 1, 1948 | Haiti[1] | Jan. 1, 1950 |
| Ceylon | July 30, 1948 | India | July 9, 1948 |
| Chile | Mar. 16, 1949 | Indonesia[3] | Mar. 11, 1948 |
| Cuba[1] | Jan. 1, 1948 | Italy | May 30, 1950 |
| Denmark | May 28, 1950 | Japan | Sept. 10, 1955 |
| Dominican Republic | May 19, 1950 | | |

See footnotes at end of tabulation.

[1] For more detailed data on the trade agreements that the United States has concluded with foreign countries, see U.S. Tariff Commission, *Trade Agreements Manual: A Summary of Selected Data Relating to Trade Agreements Negotiated by the United States Since 1934*, 3d ed., misc. ser., 1959.

[2] Four countries withdrew from the General Agreement between Oct. 30, 1947, and June 30, 1960—the Republic of China, Lebanon, Liberia, and Syria. On June 30, 1960, a total of 37 countries, including the United States, were contracting parties to the General Agreement. Although Czechoslovakia was a contracting party to the agreement on that date, neither Czechoslovakia nor the United States had any obligations to the other under the agreement. On Sept. 29, 1951, the United States, with the permission of the Contracting Parties, suspended all its obligations to Czechoslovakia under the General Agreement. Subsequently, effective Nov. 2, 1951, the United States suspended the application of trade-agreement concessions to imports from Czechoslovakia.

| *Country*—Con. | *Date* |
|---|---|
| Luxembourg | Jan. 1, 1948 |
| Malaya [4] | Do. |
| Netherlands [1] | Do. |
| New Zealand | July 31, 1948 |
| Nicaragua | May 28, 1950 |
| Norway | July 11, 1948 |
| Pakistan | July 31, 1948 |
| Peru | Oct. 7, 1951 |
| Rhodesia and Nyasaland [5] | July 12, 1948 |
| Sweden [1] | Apr. 30, 1950 |
| Turkey [1] | Oct. 17, 1951 |
| Union of South Africa | June 14, 1948 |
| United Kingdom [1] | Jan. 1, 1948 |
| Uruguay [1] | Dec. 16, 1953 |

[1] The bilateral trade agreements that the United States had previously concluded with these countries have been either suspended or terminated.

[2] Ghana (formerly the British territories of the Gold Coast and Togoland) attained independence and became a member of the British Commonwealth of Nations on Mar. 6, 1957. On Oct. 17, 1957, it became a contracting party to the General Agreement in its own right. The agreement had previously applied to the Gold Coast as an area for which the United Kingdom had international responsibility.

[3] The Netherlands negotiated concessions on behalf of the Netherlands Indies at Geneva in 1947. On Feb. 24, 1950, the Contracting Parties recognized the United States of Indonesia (now the Republic of Indonesia) as a contracting party to the General Agreement in its own right.

[4] The Federation of Malaya attained independence and became a member of the British Commonwealth of Nations on Aug. 31, 1957. On Oct. 24, 1957, it became a contracting party to the General Agreement in its own right. The agreement previously had applied to Malaya as an area for which the United Kingdom had international responsibility.

[5] The Federation of Rhodesia and Nyasaland, composed of Southern Rhodesia, Northern Rhodesia, and Nyasaland, formerly came into existence on Sept. 3, 1953. On Oct. 30, 1953, it succeeded to the status of Southern Rhodesia as a contracting party to the General Agreement, and to the interests of Northern Rhodesia and Nyasaland, to which the agreement previously had applied as areas for which the United Kingdom had international responsibility.

2. The second group consists of those eight countries that had trade agreements with the United States but were not contracting parties to the General Agreement. These countries, together with the effective dates of the respective bilateral trade agreements, are as follows:

| *Country* | *Date* |
|---|---|
| Argentina | Nov. 15, 1941 |
| El Salvador | May 31, 1937 |
| Honduras | Mar. 2, 1936 |
| Iceland | Nov. 19, 1943 |
| Iran [1] | June 28, 1944 |
| Paraguay | Apr. 9, 1947 |
| Switzerland [2] | Feb. 15, 1936 |
| Venezuela [3] | Dec. 16, 1939 |

[1] The trade agreement between the United States and Iran was terminated by joint agreement on Aug. 26, 1960, shortly after the close of the period covered by this report.

[2] A supplementary trade agreement between the United States and Switzerland became effective July 11, 1955.

[3] A supplementary trade agreement between the United States and Venezuela became effective Oct. 11, 1952.

During the period covered by this report the United States continued —as required by section 5 of the Trade Agreements Extension Act of 1951—to suspend the application to imports from Communist-controlled

countries or areas, of reduced rates of duty and import taxes established pursuant to any trade agreement.[3] The United States also continued—pursuant to section 11 of the extension act of 1951—to prohibit the entry, or withdrawal from warehouse, for consumption, of specified furs that are the product of the Soviet Union or of Communist China.[4]

## Proposals for Provisional Accession to, or for Special Arrangements Under, the General Agreement

### *Switzerland, Israel, and Yugoslavia*

On September 9, 1959, the Interdepartmental Committee on Trade Agreements and the Committee for Reciprocity Information (CRI) requested the views of interested persons regarding (1) the provisional accession of Switzerland and Israel to the General Agreement, and (2) relations with Yugoslavia under the General Agreement closer than those afforded by having an observer attend sessions of the Contracting Parties.

The proposal for provisional accession of Switzerland to the General Agreement was discussed in detail in the U.S. Tariff Commission's 12th report on the operation of the trade agreements program.[5] The proposed arrangements for the provisional accession of Israel would be similar to those for Switzerland, except that no tariff negotiations have been carried on between Israel and the contracting parties and, consequently, no new tariff concessions would be involved. Israel would not be accorded direct rights in the existing tariff concessions of contracting parties.[6]

Yugoslavia has not engaged in tariff negotiations with contracting parties to the General Agreement. To take into account the existing economic system of Yugoslavia, the proposed arrangements with that country would be much looser than those with Switzerland and Israel. In accordance with Yugoslavia's desire for closer relationships with the Contracting Parties than those afforded by its observer status, the proposed arrangements provide that Yugoslavia would apply the provisions of the General Agreement to the extent compatible with the current economic system of Yugoslavia. In return, contracting parties would accord to Yugoslavia such treatment as would achieve an equitable balance of rights and obligations as envisaged in the General Agreement.

[3] On Nov. 17, 1960, after the close of the period covered by this report, the President announced that, effective Dec. 16, 1960, the suspension of reduced rates of duty would cease to be applicable to imports from Poland and areas under the provisional administration of Poland. Beginning Dec. 16, 1960, therefore, imports from Poland again became dutiable at the reduced rates established pursuant to trade agreements.

[4] For details of U.S. actions under secs. 5 and 11 of the Trade Agreements Extension Act of 1951, see *Operation of the Trade Agreements Program,* 6th report, pp. 77–78.

[5] See also the section of this chapter on the provisional accession of Switzerland to the General Agreement.

[6] See the discussion in ch. 2 on the provisional accession of Israel. The United States has no bilateral trade agreement with Israel.

Under the proposed arrangements, the objectives of the General Agreement would be taken as the basis for commercial relationships between Yugoslavia and contracting parties, and questions arising under the arrangements might be considered in bilateral and multilateral consultations.[7]

***Tunisia and Poland***

On January 29, 1960, the Interdepartmental Committee on Trade Agreements issued notice that the United States intended to consider participating in arrangements (1) for the provisional accession of Tunisia to the General Agreement, and (2) for relationships between Poland and the Contracting Parties to GATT closer than those afforded by that country's observer status. On the same day, the interdepartmental Committee for Reciprocity Information requested views by interested parties with respect to U.S. participation in the proposed arrangements, and announced that public hearings on the subject would be held beginning on March 15, 1960.

The proposed arrangement with Tunisia would involve that country's provisional accession to the General Agreement, and its participation in the work of the Contracting Parties on a limited basis pending its definitive accession to the agreement after tariff negotiations at Geneva in 1960–61. Under the proposed arrangement, Tunisia would apply the provisions of the General Agreement to contracting parties that accept the arrangement, but would not undertake obligations with respect to tariff concessions. In return, contracting parties that participate in the arrangement would apply to Tunisia the provisions of the General Agreement other than those which accord direct rights to their schedules of tariff concessions.[8] The arrangement would not involve the granting of any tariff concessions by the United States, which has no bilateral trade agreement with Tunisia.

Since the 12th Session of the Contracting Parties in 1957, Poland has been represented at sessions of the Contracting Parties by an observer. The proposed arrangement with Poland would involve that country's participation—without a vote—in the work of the Contracting Parties. Under the arrangement, Poland would undertake promptly to make public certain information such as the laws, regulations, and statistics relating to its trade. Provision also would be made for bilateral adjustment of questions arising out of the arrangement, and for an annual review of the arrangement by the Contracting Parties.[9] The United States has no bilateral trade agreement with Poland. U.S. participation in the arrangement would not require the United States to grant most-favored-

[7] See the discussion in ch. 2 on the proposed arrangement with Yugoslavia.

[8] See the discussion in ch. 2 on the provisional accession of Tunisia.

[9] See the discussion in ch. 2 on the proposed arrangement with Poland.

nation treatment to Poland, and would not involve the granting by the United States of any tariff concessions or the extension to Poland of any rights to existing U.S. tariff concessions.

### Provisional Accession of Switzerland to the General Agreement

On March 30, 1960, the United States accepted the declaration of November 22, 1958, governing the provisional accession of Switzerland to the General Agreement on Tariffs and Trade. Under the arrangement for Switzerland's accession, Switzerland (with certain exceptions that relate to arts. XI and XV of the General Agreement) and other contracting parties that accept the declaration undertake to apply to each other the provisions of the General Agreement. U.S. acceptance of the declaration does not involve modification of any U.S. tariff concessions. By accepting the declaration, the United States acquired direct rights to the tariff concessions negotiated in 1958 by Switzerland and other contracting parties to the General Agreement (not including the United States). In return, Switzerland acquired direct rights to the tariff concessions set forth in the U.S. schedule (schedule XX) of the General Agreement.

Trade relations between the United States and Switzerland are also governed by the bilateral trade agreement that the two countries negotiated in 1936, and the supplementary agreement concluded in 1955. The bilateral agreement between the United States and Switzerland will continue in force outside the framework of GATT. By an exchange of notes on March 29, 1960, the United States and Switzerland agreed that continuance in force of their respective obligations under the bilateral trade agreement will not prevent either country from taking action that is permitted under an exception, reservation, or waiver to the provisions of the General Agreement.

### Adoption of New Nomenclature for Swiss Schedule of Bilateral Trade Agreement With Switzerland

Effective January 1, 1960, Switzerland placed in effect a new tariff schedule based on the Brussels Nomenclature. On December 30, 1959, by an exchange of notes, the United States and Switzerland agreed that the new nomenclature would apply to the Swiss schedule of tariff concessions in the 1936 U.S.-Swiss bilateral trade agreement, as supplemented. The change in the Swiss tariff was limited to tariff numbers and descriptions; no changes in rates of duty were involved. Tariff concessions that the United States granted to Switzerland in the bilateral trade agreement with that country were not affected by the exchange of notes.

## TRADE-AGREEMENT NEGOTIATIONS AND CONSULTATIONS DURING 1959–60

During the period covered by this report the United States participated in, or prepared for, limited trade-agreement negotiations under the General Agreement (1) with Cuba, as a result of that country's adoption of a new customs tariff; (2) with Belgium, Denmark, West Germany, Japan, the Netherlands, Sweden, and the United Kingdom, as a result of requests by those countries for tariff concessions to compensate them for increases in U.S. rates of duty resulting from escape-clause actions; (3) with the United Kingdom, Belgium, and other interested contracting parties as a result of U.S. invocation of the so-called Geneva wool-fabric reservation; and (4) with Canada, as a result of that country's revision of the textile schedule of its tariff. The United States carried out its preparations for negotiations with the above-mentioned countries under the procedures specified in the Trade Agreements Act, as amended and extended, in Executive Order 10082 of October 5, 1949, as amended, and in Executive Order 10741 of November 25, 1957. During the period covered by this report the United States also engaged in preparations for participation in the general tariff Conference to be held by the Contracting Parties to the General Agreement at Geneva beginning in September 1960.

During 1958–59 the United States and Brazil participated in tariff negotiations which were part of a general renegotiation to establish a new Brazilian schedule of concessions in the General Agreement on Tariffs and Trade. The negotiations, which began in February 1958, were concluded on February 10, 1959, with the signature by the two countries of a procès-verbal embodying the results of the renegotiations. By the close of the period covered in this report the Brazilian Congress had not ratified the results of the renegotiations, and therefore neither the concessions that Brazil granted to the United States nor the changes negotiated in the status of U.S. concessions to Brazil had become effective.[10]

### Tariff Renegotiations With Cuba

On July 30, 1959, the interdepartmental Committee for Reciprocity Information issued notice that the United States intended to participate in tariff renegotiations with Cuba under the provisions of article XXVIII of the General Agreement. The CRI also announced that public hearings to obtain views with respect to U.S. participation in the renegotiations would be held beginning September 15, 1959.

The proposed renegotiations resulted from Cuba's adoption of a new customs tariff. In 1958, as a result of studies leading to the revision of

[10] For a detailed discussion of the U.S.-Brazilian tariff negotiations, see *Operation of the Trade Agreements Program*, 12th report, pp. 79–84.

its tariff, Cuba placed in effect the new nomenclature and rates of duty applicable to imports from countries with which it did not have trade agreements or commercial arrangements. At that time Cuba announced that it would continue in effect the old nomenclature and rates of duty applicable to imports from other countries, pending completion of tariff negotiations with them. Subsequently, Cuba transmitted to the United States a list of the tariff concessions in its schedule (schedule IX) of the General Agreement which it proposed to renegotiate. The list comprised 44 commodity groups or principal commodities.

Article XXVIII of the General Agreement provides that a country proposing to renegotiate a concession by modifying or withdrawing it is required to negotiate regarding compensatory adjustment with the country with which the concession was originally negotiated and with any other country having a principal supplying interest or substantial trade in the commodity covered by the concession. This article also provides that if no settlement is possible on the basis of such compensatory concessions as may be offered, the countries adversely affected may withdraw concessions initially negotiated with the first country which are of a value substantially equivalent to the concessions which the first country is modifying or withdrawing. The notice of the CRI, therefore, invited views from interested parties (1) regarding the possible effect on U.S. trade of modification or withdrawal of concessions in Cuba's schedule of the General Agreement, (2) regarding compensatory concessions which the United States might seek from Cuba, and (3) concerning possible withdrawal of concessions in the U.S. schedule of the General Agreement (schedule XX) initially negotiated with Cuba.

By June 30, 1960, the close of the period covered by this report, the article XXVIII renegotiations between Cuba and the United States had not yet begun.

### Negotiations Resulting From Requests for Compensatory Concessions

On August 19, 1959, the Interdepartmental Committee on Trade Agreements issued public notice that the United States intended to undertake limited tariff negotiations, under the provisions of article XIX of the General Agreement, as a result of requests by seven contracting parties for compensatory tariff concessions. The proposed negotiations were to be held (1) with the United Kingdom and West Germany, to compensate those countries for increase in the U.S. rate of duty on safety pins; (2) with Sweden, Denmark, Belgium, and the Netherlands, to compensate those countries for increase in the U.S. rate of duty on spring clothespins; and (3) with Japan, to compensate that country for increase in the U.S. rate of duty on clinical thermometers. The President modified or withdrew the U.S. concessions on the above-mentioned com-

modities and increased the rates of duty on them during 1957 and 1958, after escape-clause investigations and reports by the Tariff Commission.

On August 19, 1959, the President transmitted to the Tariff Commission a list of the commodities that the United States proposed to consider for compensatory concessions in the negotiations. The President's list involved 26 tariff paragraphs and covered 36 statistical (*Schedule A*) [11] classifications. The Commission instituted the required peril-point investigation on August 19, 1959. Public hearings were held by the Tariff Commission October 6–8, 1959, and by the Committee for Reciprocity Information on October 6 and 8, 1959. The Commission submitted its peril-point report to the President on November 23, 1959. On June 30, 1960, the close of the period covered by this report, the negotiations with the seven countries mentioned above had not been completed.

### Negotiations Resulting From U.S. Invocation of the Geneva Wool-Fabric Reservation

On October 22, 1959, the Interdepartmental Committee on Trade Agreements issued public notice that the United States intended to undertake limited tariff renegotiations with the United Kingdom, Belgium, and other interested contracting parties, for the purpose of modifying U.S. tariff concessions on certain wool fabrics. The renegotiations resulted from the invocation by the United States in 1956 of the so-called Geneva wool-fabric reservation in its schedule of the General Agreement, and the subsequent establishment of a tariff quota on imports of certain wool fabrics.[12]

In accordance with the provisions of section 3 of the Trade Agreements Extension Act of 1951, as amended, the President on October 22, 1959, transmitted to the Tariff Commission a list of the commodities that the United States proposed to consider in the renegotiations. The President's list involved 2 tariff paragraphs and covered 31 statistical (*Schedule A*) classifications. The Commission instituted the required peril-point investigation on October 22, 1959. Public hearings were held by the Tariff Commission December 1–4 and 7–10, 1959, and by the Committee for Reciprocity Information December 1, 2, 4, and 7–10, 1959. The Commission submitted its peril-point report to the President on February 10, 1960. On June 30, 1960, the close of the period covered by this report,

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[11] U.S. Department of Commerce, *Schedule A, Statistical Classification of Commodities Imported Into the United States.*

[12] The tariff concessions involved in the renegotiations were those contained in tariff items 1108 and 1109(a) in pt. I of schedule XX (the U.S. schedule) of the General Agreement. The note appended to item 1108 permits the United States to establish a tariff quota on imports of the specified woolen fabrics. See the section of this chapter on the Geneva wool-fabric quota.

the renegotiations for the modification of U.S. tariff concessions on certain wool fabrics had not been completed.

### Negotiations Resulting From Canada's Tariff Revision

On September 30, 1959, the interdepartmental Committee for Reciprocity Information invited interested parties to submit their views with respect to U.S. participation in tariff renegotiations arising from Canada's desire to modify—under the provisions of article XXVIII of the General Agreement—certain concessions that it had granted in that agreement on textiles and related products. Many of the concessions that Canada desired to renegotiate had been initially negotiated with the United States or involved commodities of which the United States is the principal or a large supplier.

The proposed renegotiations were one in a series resulting from Canada's continuing revision of its customs tariff. In carrying out the revision of its tariff, the Government of Canada refers individual tariff schedules to the Canadian Tariff Board for investigation and recommendations. On the basis of the Board's recommendations the language, and in some instances the rate structure, is revised. Not all the revisions recommended by the Canadian Tariff Board involve increases in rates of duty; some of them call for reductions in existing rates of duty and others relate to changes in language incidental to the establishment of broader tariff classifications. Insofar as the tariff revision involves commodities that have been the subject of concessions by Canada under the General Agreement, Canada is required to renegotiate with the interested contracting parties, with a view to granting them compensatory concessions in those instances in which rates of duty on concession items are increased. The renegotiations did not involve the granting of any tariff concessions by the United States.

The renegotiations, which began in November 1959, involved revision of part of the textile schedule in the Canadian tariff. The revision included certain commodities in the following classifications of Canada's schedule (schedule V) of the General Agreement: Cotton products; synthetic textile fiber products; silk products; wool and products; flax, hemp, and jute products; textile products of miscellaneous and mixed composition; and other products.[13] On April 1, 1960, Canada placed in effect the results of the first part of its renegotiations—with the United States and other countries—of its concessions on textiles and related products.

[13] For a more detailed listing of the commodity groups involved in the renegotiations, see U.S. Department of State press release No. 684, Sept. 30, 1959.

### Preparations for General Tariff Negotiations in 1960–61

At the beginning of their 13th Session the Contracting Parties to the General Agreement on Tariffs and Trade held a series of ministerial meetings, at which the United States was represented by Mr. C. Douglas Dillon, Under Secretary of State for Economic Affairs. At these meetings the United States proposed that arrangements be made to hold a fifth round of general tariff negotiations beginning in mid-1960.[14] The United States also suggested that such negotiations be completed before January 1, 1962, the date when the members of the European Economic Community would take the first step in adjusting their national external tariffs to the Community's common external tariff. At the conclusion of the ministerial meetings, the ministers agreed that it would be desirable to hold a fifth round of general tariff negotiations and recommended that the Contracting Parties consider the matter.

During their plenary session the Contracting Parties discussed the proposal for a new round of tariff negotiations. Since the U.S. proposal had the general approval of the contracting parties, the Contracting Parties appointed a committee to examine it and to suggest rules and conditions, as well as a time and place, for the proposed negotiations.

On the basis of the committee's recommendation, the Contracting Parties decided at their 14th Session in May 1959 to hold a general tariff Conference beginning in September 1960. The Conference will embrace four types of negotiations: (1) Renegotiations with the member states of the European Economic Community pursuant to article XXIV:6; (2) renegotiations of concessions in existing schedules pursuant to article XXVIII:1; (3) negotiations by contracting parties for new or additional concessions; and (4) negotiations with countries that desire to accede to the General Agreement. The tariff Conference will consist of two phases. The first phase, beginning in September 1960, will be concerned with renegotiations (items 1 and 2 above); the second phase, beginning sometime in 1961, will be concerned with negotiations with contracting parties for new or additional concessions and negotiations with countries that desire to accede to the General Agreement (items 3 and 4 above).

### Trade-Agreement Consultations With Venezuela

On March 15, 1960, the Department of State announced that the United States would shortly begin consultations with the Government of Venezuela to study the effect of certain import restrictions that Venezuela had imposed—for the most part in 1959—on U.S. exports to that country. The consultations were requested by the United States under the provisions of article XVII of the 1939 bilateral trade agreement

[14] The four previous rounds of general tariff negotiations were held at Geneva in 1947, at Annecy in 1949, at Torquay in 1950–51, and at Geneva in 1956.

with Venezuela, as supplemented. The restrictions imposed by Venezuela include those on cigarettes, wheat flour, automobiles, cameras, canned food products, copper cable, and numerous luxury and semiluxury products. The consultations did not involve any revision or modification of the bilateral trade agreement between the United States and Venezuela.

### Consultations on Import Restrictions

On March 15, 1960, the interdepartmental Committee for Reciprocity Information invited interested parties to submit views in connection with consultations scheduled during 1960 by the Contracting Parties to the General Agreement on Tariffs and Trade. The consultations relate to the application by certain contracting parties of quantitative import restrictions imposed for balance-of-payments reasons under articles XII, XIV, and XVIII:B of the agreement. Plans call for separate consultations with each consulting country by a panel of 13 countries, including the United States. The proposed schedule for the consultations, and the consulting countries, are as follows: May 1960—Austria, Brazil, Denmark, Greece, India, Malaya, and Uruguay; July 1960—Finland, France, Ghana, Israel, Norway, Sweden, Turkey, and Yugoslavia; October 1960—Australia, Burma, Ceylon, Chile, Indonesia, Japan, New Zealand, Pakistan, and Rhodesia and Nyasaland.

Each consultation is designed to afford the Contracting Parties the opportunity (1) to review the particular country's financial and economic position, and (2) to explore the possibilities for further relaxation of its import restrictions, for lessening the discriminatory application of such restrictions, and for moderating particular policies and practices that are especially burdensome to exporters in other countries that are contracting parties to the General Agreement. The CRI suggested that interested U.S. exporters, business firms, labor organizations, and other individuals or associations might, as a result of their own experience, wish to submit certain types of information that would be useful to the U.S. Government during the course of the consultations.

## ACTIONS RELATING TO TRADE-AGREEMENT CONCESSIONS

### Withdrawal or Modification of Trade-Agreement Concessions

*Stainless-steel table flatware*

By Proclamation 3323 of October 20, 1959, effective November 1, 1959, the President modified the concessions that the United States granted on certain stainless-steel table flatware in the General Agreement on Tariffs and Trade. The concessions were modified under the provisions of article XIX of the General Agreement, after an escape-clause investigation and report by the U.S. Tariff Commission pursuant to section 7 of the Trade Agreements Extension Act of 1951, as amended. In his proclama-

tion the President established a tariff quota on imports of certain stainless-steel table flatware not over 10.2 inches in overall length and valued at under $3 per dozen pieces. The proclamation increased the rates of duty on imports of the specified stainless-steel table flatware which are in excess of 69 million single units annually; for imports up to 69 million single units annually the rates of duty were not changed.[15]

*Geneva wool-fabric quota*

In a note attached to item 1108 of part I of the U.S. schedule of concessions in the General Agreement on Tariffs and Trade, the United States reserved the right to increase to 45 percent the ad valorem parts of the compound rates of duty applicable to any of the fabrics provided for in items 1108 or 1109(a), on any of such fabrics that are entered in any calendar year in excess of an aggregate quantity (by weight) of 5 percent of the average annual production of similar fabrics in the United States during the three immediately preceding calendar years.

By Proclamation 3160 of September 28, 1956, the President invoked this so-called Geneva wool-fabric reservation and established, effective October 1, 1956, a tariff quota on imports of certain woolen and worsted fabrics. Under the proclamation it is necessary for the President to inform the Secretary of the Treasury of the size of the quota for each year. Before the United States invoked the Geneva wool-fabric reservation, the rates of duty on the woolen and worsted fabrics covered by the reservation were 30 or 37½ cents per pound, depending on the nature of the fabric, plus 20 or 25 percent ad valorem, again depending on the nature of the fabric. Since the United States invoked the reservation, the rates of duty on imports of the specified woolen and worsted fabrics have remained the same for a quantity up to that determined each year by the President. Imports in excess of the quantity specified by the President—with the exceptions noted below—have been subject to an ad valorem duty of 45 percent; the specific parts of the compound duties have not been changed.

On March 7, 1958, by Proclamation 3225, the President amended the proclamation of September 28, 1956, to provide that imports of certain handwoven and "religious" fabrics would be subject to an overquota rate of 30 percent ad valorem. On April 21, 1959, by Proclamation 3285, the President further amended the proclamation of September 28, 1956, by establishing an overquota rate of duty of 30 percent ad valorem for a

[15] For the concession rates of duty on the specified products and the increased rates of duty proclaimed by the President for imports of the specified products in excess of 69 million single units annually, see 24 F.R. 8625.

maximum of 350,000 pounds of overquota imports of certain high-priced, high-quality fabrics.[16]

On February 8, 1960, the President informed the Secretary of the Treasury that, for the calendar year 1960, the tariff quota on woolen and worsted fabrics dutiable under tariff paragraphs 1108 and 1109(a) would be 13.5 million pounds—the same as for 1959.[17] In the press release announcing the wool-fabric quota for 1960, the President noted that many problems have arisen during the operation of the quota and stated that in an effort to find a more satisfactory solution to those problems, the United States had issued notice of its intention to renegotiate the tariff concessions involved.[18]

### U.S. Restrictions on Imports of Agricultural Products

To resolve the difference between its domestic legislation and the provisions of the General Agreement, the United States—at the Ninth Session of the Contracting Parties to the General Agreement on Tariffs and Trade in 1954–55—requested a waiver of its commitments under articles II and XI of the General Agreement, insofar as such commitments might be regarded as inconsistent with action it is required to take under section 22 of the U.S. Agricultural Adjustment Act, as amended. Besides establishing certain rules of procedure and certain conditions as to consultation, the waiver, which the Contracting Parties granted to the United States at the Ninth Session, required the United States to report annually on its actions under the waiver.[19]

During all or part of the period July 1, 1959, to June 30, 1960, the United States applied quantitative restrictions (quotas[20] or embargoes) on the importation of certain cotton and cotton waste; wheat and wheat flour; certain dairy products; butter substitutes containing 45 percent or more of butterfat; almonds; peanuts; peanut oil; tung oil and tung nuts; certain articles containing butterfat; and rye, rye flour, and rye

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[16] Proclamation 3317 of Sept. 24, 1959, which also amended the proclamation of Sept. 28, 1956, made certain technical clarifications of that proclamation.

[17] White House press release, Feb. 8, 1960. For the period Oct. 1–Dec. 31, 1956, the tariff quota was 3.5 million pounds; for 1957, 14 million pounds; for 1958, 14.2 million pounds; and for 1959, 13.5 million pounds.

[18] See the section of this chapter on negotiations resulting from U.S. invocation of the Geneva wool-fabric reservation.

[19] For a discussion of the fifth annual report of the United States on its actions under the waiver, see the section of ch. 2 on U.S. restrictions on imports of agricultural products (fifth annual report) (arts. II and XI).

[20] This discussion relates only to quotas that limit the total quantity of imports. Such "absolute" quotas are to be distinguished from "tariff" quotas established for a number of individual articles in various trade agreements. Under tariff quotas, specified quantities of the articles may enter the United States at the ordinary rates of duty; imports in excess of the quota are subject to higher rates of duty but may be entered in unlimited quantities.

meal—under the provisions of section 22 of the Agricultural Adjustment Act, as amended.[21] During this period the United States also charged fees, under the provisions of section 22, on the importation of flaxseed, linseed oil, and peanut oil; these fees were in addition to the regular import duties levied on those products.

Section 22 of the Agricultural Adjustment Act, as amended, authorizes the President to restrict imports of any commodity, by imposing either fees or quotas (within specified limits), whenever such imports render or tend to render ineffective, or materially interfere with, programs of the U.S. Department of Agriculture relating to agricultural commodities or products thereof. Section 22 requires the Tariff Commission, when so directed by the President, to conduct an investigation of the specified commodity, including a public hearing, and to make a report and appropriate recommendation to him. Under subsection (f) of section 22, as amended by section 8(b) of the Trade Agreements Extension Act of 1951, no trade agreement or other international agreement entered into at any time by the United States may be applied in a manner inconsistent with the requirements of section 22.

Section 8(a) of the Trade Agreements Extension Act of 1951, as amended, establishes special procedures for invoking section 22 in emergency conditions due to the perishability of any agricultural commodity. When the Secretary of Agriculture reports to the President and to the Tariff Commission that such emergency conditions exist, the Commission must make an immediate investigation under section 22 and make appropriate recommendations to the President. The Commission's report to the President and the President's decision must be made not more than 25 calendar days after the case is submitted to the Commission.

An amendment to section 22 of the Agricultural Adjustment Act by section 104 of the Trade Agreements Extension Act of 1953 [22] provides that the President may take immediate action under section 22 without awaiting the Tariff Commission's recommendations whenever the Secretary of Agriculture determines and reports to him, with regard to any article or articles, that a condition exists requiring emergency treatment. Such action by the President may continue in effect pending his receipt of, and his action on, the report and recommendations of the Commission after an investigation under section 22. Under section 8(a) of the Trade Agreements Extension Act of 1951, as amended, the President's authority to act before he had received a report from the Commission was limited to perishable agricultural products. During the period covered by this report no action was taken under either subsection (f) of section 22 or section 8(a) of the Trade Agreements Extension Act of 1951, as amended.

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[21] 7 U.S.C. 624

[22] 67 Stat. 472.

During the period July 1959–June 1960 the Tariff Commission completed five investigations under the provisions of section 22 of the Agricultural Adjustment Act, as amended—a supplemental investigation of long-staple cotton; an investigation of rye, rye flour, and rye meal; an investigation of shelled almonds and blanched, roasted, or otherwise prepared or preserved almonds; a supplemental investigation of certain cheeses; and an investigation of articles containing cotton. Only two of these investigations—those relating to rye, rye flour, and rye meal and to certain cheeses—resulted in action under the provisions of section 22. As a result of the Tariff Commission's investigation of rye, rye flour, and rye meal, the President decided to continue for 2 years the existing annual quota on those products. As a result of the Tariff Commission's supplemental investigation of certain cheeses, the President increased the annual quotas for Edam and Gouda cheeses and for Italian-type cheeses.

***Long-staple cotton (supplemental investigation)***

On March 25, 1959, the Commission upon its own motion instituted, under the provisions of section 22, a supplemental investigation of cotton having a staple of 1⅛ inches or more in length. Annual absolute quotas on imports of such cotton were originally made effective on September 20, 1939, by Presidential Proclamation 2351 of September 5, 1939,[23] after an investigation under section 22 by the Tariff Commission. When the Commission instituted the supplemental investigation on March 25, 1959, the quota was 45,656,420 pounds for each 12-month period beginning August 1, and was subdivided into two separate quotas, one for cotton having a staple of 1⅜ inches or more in length (39,590,778 pounds) and the other for cotton having a staple of 1⅛ inches or more but less than 1⅜ inches in length (6,065,642 pounds). The Commission held a public hearing on April 28 and 29, 1959.

The Commission reported the results of its investigation to the President on July 10, 1959.[24] On the basis of its investigation the Commission found (Commissioner Overton not participating, and Commissioners Schreiber and Sutton dissenting) that no changed circumstances existed requiring the modification of the existing quotas on long-staple cotton established under the authority of section 22 of the Agricultural Adjustment Act, as amended. The Commission, therefore, made no recommendation to the President for further action under section 22. On September 22, 1959, the President accepted the Commission's report on long-staple cotton.

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[23] 4 F.R. 3822.

[24] U.S. Tariff Commission, *Long-Staple Cotton: Report to the President on Investigation Supplemental to Investigation No. 1 Under Section 22 . . .*, 1959 [processed].

*Rye, rye flour, and rye meal*

On June 24, 1959, at the request of the President, the Tariff Commission instituted an investigation of rye, rye flour, and rye meal under the provisions of section 22. A public hearing was held on July 13, 1959.

The Commission reported the results of its investigation to the President on July 29, 1959.[25] On the basis of its investigation, the Commission found that rye, rye flour, and rye meal were practically certain to be imported after June 30, 1959, under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program for rye undertaken by the Department of Agriculture pursuant to sections 301 and 401 of the Agricultural Act of 1949, as amended, and to reduce substantially the amount of products processed from domestically produced rye. To prevent such interference, the Commission recommended that a quota of 95,200,000 pounds, of which not more than 8,000 pounds may be rye flour or rye meal, be imposed for succeeding 12-month periods beginning July 1, 1959. The Commission also recommended that of the total annual quota, not more than 93,296,000 pounds be allocated to Canada and not more than 1,904,000 pounds, to all other countries.

By Proclamation 3306 of August 4, 1959,[26] the President imposed for the 2 years ending June 30, 1961, an average annual quota of 186,000,000 pounds for imports of rye, rye flour, and rye meal. In its report the Tariff Commission had recommended the imposition of an annual quota of 95,200,000 pounds for an indefinite period. In accepting the Tariff Commission's finding that import restrictions would remain necessary after June 30, 1959, the President decided to continue for 2 years the existing annual quota of 186,000,000 pounds. His proclamation continued the historical allocation of the quota—182,280,000 pounds for imports from Canada and 3,720,000 pounds for imports from other countries. The proclamation specified that of the total permissible imports, not more than 15,000 pounds might be of rye flour or rye meal.

*Almonds*

On July 29, 1959, at the request of the President, the Tariff Commission instituted an investigation of shelled almonds and blanched, roasted, or otherwise prepared or preserved almonds, under the provisions of section 22. The Commission held a public hearing in the investigation on August 25, 1959.

The Commission reported the results of its investigation to the Presi-

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[25] U.S. Tariff Commission, *Rye and Rye Flour and Rye Meal: Report to the President on Investigation 9C Under Section 22 . . .*, 1959 [processed].

[26] 24 F.R. 6407; 3 CFR, 1959 Supp., 54.

dent on September 25, 1959.[27] The four Commissioners participating in the decision in this investigation divided equally in their findings.[28] Commissioners Talbot and Schreiber found that shelled almonds and blanched, roasted, or otherwise prepared or preserved almonds (not including almond paste) were practically certain to be imported into the United States during the period October 1, 1959, to September 30, 1960, both dates inclusive, under such conditions and in such quantities as to materially interfere with the U.S. Department of Agriculture marketing-agreement-and-order program with respect to almonds undertaken pursuant to the Agricultural Marketing Agreement Act of 1937, as amended. These Commissioners also found that in order to prevent such interference it was necessary that a fee of 10 cents per pound, but not more than 50 percent ad valorem, be imposed on all such products imported during the 12-month period beginning October 1, 1959, in excess of an aggregate quantity of 3 million pounds. The fee recommended was to be in addition to the regular customs duties (irrespective of the quantities imported) of 16½ cents per pound on shelled almonds and 18½ cents per pound on blanched, roasted, or otherwise prepared or preserved almonds.

Commissioners Jones and Dowling found that shelled almonds, and blanched, roasted, or otherwise prepared or preserved almonds were not practically certain to be imported into the United States during the period October 1, 1959, to September 30, 1960, both dates inclusive, under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the U.S. Department of Agriculture marketing-agreement-and-order program with respect to almonds undertaken pursuant to the Agricultural Marketing Agreement Act of 1937, as amended. These Commissioners, therefore, made no recommendation to the President for the imposition of additional import restrictions on the products under consideration.

On February 5, 1960, the President announced that he had accepted as the findings of the Tariff Commission the findings of two Commissioners that imposition of restrictions on imports of the specified almonds under the provisions of section 22 was not warranted. Section 330(d) of the Tariff Act of 1930, as amended, authorizes the President—when the vote of the Tariff Commission is equally divided—to accept the findings of either group of Commissioners as the findings of the Commission.

***Certain cheeses (supplemental investigation)***

At the request of the President, the Tariff Commission on October 21,

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[27] U.S. Tariff Commission, *Almonds: Report to the President on Investigation No. 21 under Section 22 . . .*, 1959 [processed].

[28] Commissioners Overton and Sutton did not participate in the decision in this investigation.

1959, instituted a supplemental investigation, under the provisions of section 22, with respect to the following cheeses: Edam and Gouda cheeses; and Italian-type cheeses made from cow's milk in original loaves (Romano made from cow's milk, Reggiano, Parmesan, Provoloni, Provolette, and Sbrinz). Import quotas were originally imposed on these cheeses in 1953. The Commission held a public hearing in the investigation on November 23 and 24, 1959.

The Commission reported the results of its investigation to the President on April 8, 1960.[29] On the basis of its investigation, the Commission found (Commissioners Schreiber and Sutton dissenting) that the annual quota for Edam and Gouda cheeses might be increased from 4,600,200 pounds to 9,200,400 pounds, and that the annual quota on the Italian types of cheeses might be increased from 9,200,100 pounds to 11,500,100 pounds, without materially interfering with or rendering ineffective the price-support program for milk and butterfat.

By Proclamation 3347 of May 11, 1960,[30] effective July 1, 1960, the President increased the annual quota for Edam and Gouda cheeses from 4,600,200 pounds to 9,200,400 pounds and that for Italian-type cheeses from 9,200,100 pounds to 11,500,100 pounds, as recommended by the Commission.

*Articles containing cotton*

On November 16, 1959, at the request of the President, the Tariff Commission instituted an investigation—under the provisions of section 22—of articles containing cotton. The purpose of the investigation was to determine whether articles containing cotton are being, or are practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the export subsidy program of the U.S. Department of Agriculture for cotton and cotton products in operation pursuant to section 203 of the Agricultural Act of 1956.[31] The Commission held public hearings in the investigation March 1–4 and 8–9, 1960.

On June 27, 1960, the Commission reported to the President the results of its investigation of articles containing cotton.[32] On the basis of its investigation, the Commission found (Commissioners Schreiber and Sutton dissenting) that imports of articles containing cotton were not rendering or tending to render ineffective or materially interfering with the Department of Agriculture cotton export subsidy program. The Com-

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[29] U.S. Tariff Commission, *Certain Cheeses: Report to the President on Investigation No. 22–6 (Supplemental) Under Section 22 . . .*, 1960 [processed].

[30] 25 F.R. 4343.

[31] 70 Stat. 199; 7 U.S.C. 1853.

[32] U.S. Tariff Commission, *Articles Containing Cotton: Report to the President on Investigation No. 22–22 Under Section 22 . . .*, 1960 [processed].

mission, therefore, made no recommendation to the President for the imposition of a fee or other import restriction on the imports of such articles. On June 30, 1960, the close of the period covered by this report, the President had not acted on the Commission's report.[33]

## ACTIVITIES UNDER THE PERIL-POINT PROVISION

Sections 3 and 4 of the Trade Agreements Extension Act of 1951 [34] set forth the statutory requirements for so-called peril-point determinations in connection with proposed trade-agreement negotiations. The peril-point provisions of the 1951 act require the President, before entering into any trade-agreement negotiation, to transmit to the Tariff Commission a list of the commodities that are to be considered for concessions. The Commission is then required to conduct an investigation, including a public hearing, and to report its findings to the President on (1) the maximum decrease in duty, if any, that can be made on each listed commodity without causing or threatening serious injury to the domestic industry producing like or directly competitive products, or (2) the minimum increase in duty or additional import restrictions that may be necessary on any of the listed products in order to avoid serious injury or the threat of serious injury to such domestic industry.

The President may not conclude a trade agreement until the Tariff Commission has submitted its report to him, or until 6 months from the date he transmits the list of products to the Commission.[35] Should the President conclude a trade agreement that provides for greater reductions in duty than the Commission specifies in its report, or that fails to provide for the minimum increase in duty or the additional import restrictions that the Commission specifies, he must transmit to the Congress a copy of the trade agreement in question, identifying the articles concerned and stating his reasons for not carrying out the Tariff Commission's recommendations. Promptly thereafter, the Tariff Commission must deposit with the Senate Committee on Finance and the House Committee on Ways and Means a copy of the portions of its report to the President dealing with the articles with respect to which the President did not follow the Commission's recommendations.

The Trade Agreements Extension Act of 1958 amended section 3 of the Trade Agreements Extension Act of 1951, as amended, by providing

[33] On Aug. 23, 1960, after the close of the period covered by this report, the President accepted the Commission's report on its investigation of articles containing cotton.

[34] 65 Stat. 72.

[35] The Trade Agreements Extension Act of 1951 originally provided that the President might not conclude a trade agreement until the Commission had submitted its report to him, or until 120 days from the date he transmitted the list of products to the Commission. The Trade Agreements Extension Act of 1958, which was approved on Aug. 20, 1958, extended the time for completion of peril-point investigations to 6 months.

that if in the course of any peril-point investigation the Tariff Commission finds—with respect to any article on the President's list upon which a tariff concession has been granted—that an increase in duty or additional import restriction is required to avoid serious injury to the domestic industry producing like or directly competitive articles, the Commission must promptly institute an escape-clause investigation with respect to that article.

During the period covered by this report the Tariff Commission conducted three peril-point investigations under the provisions of section 3 of the Trade Agreements Extension Act of 1951, as amended.

On August 19, 1959, the Interdepartmental Committee on Trade Agreements issued public notice that the United States intended to undertake limited tariff negotiations, under the provisions of article XIX of the General Agreement on Tariffs and Trade, as a result of requests by seven contracting parties for compensatory tariff concessions. The proposed negotiations were to be held (1) with the United Kingdom and West Germany to compensate those countries for the increase in the U.S. rate of duty on safety pins; (2) with Sweden, Denmark, Belgium, and the Netherlands to compensate those countries for the increase in the U.S. rate of duty on spring clothespins; and (3) with Japan on the basis of the 1958 increase in the U.S. rate of duty on clinical thermometers. The President modified or withdrew the U.S. concessions on the above-mentioned commodities and increased the rates of duty on them during 1957 and 1958, after escape-clause investigations and reports by the Tariff Commission.[36]

On August 19, 1959, the President transmitted to the Tariff Commission a list of the commodities that the United States proposed to consider for concessions in the proposed negotiations. The President's list involved 26 tariff paragraphs and covered 36 statistical (*Schedule A*)[37] classifications. The Commission instituted the required peril-point investigation on August 19, 1959, and held a public hearing October 6–8, 1959. The Commission submitted its report to the President on November 23, 1959.

On October 22, 1959, the Interdepartmental Committee on Trade Agreements issued public notice that the United States intended to undertake limited tariff negotiations with the United Kingdom, Belgium,

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[36] The increase from 22½ to 35 percent ad valorem in the rate of duty on safety pins became effective after the close of business on Dec. 30, 1957; the increase from 10 to 20 cents per gross in the rate of duty on spring clothespins became effective after the close of business on Dec. 9, 1957; and the increase from 42½ to 85 percent ad valorem in the rate of duty on clinical thermometers became effective after the close of business on May 21, 1958.

[37] U.S. Department of Commerce, *Schedule A, Statistical Classification of Commodities Imported Into the United States.*

and other interested contracting parties for the purpose of modifying U.S. tariff concessions on certain wool fabrics. The negotiations resulted from the invocation by the United States in 1956 of the so-called Geneva wool-fabric reservation in its schedule of the General Agreement, and the subsequent establishment of a tariff quota on imports of certain wool fabrics.[38]

On October 22, 1959, the President transmitted to the Tariff Commission a list of the commodities that the United States would consider for compensatory concessions in the proposed negotiations. The President's list involved two tariff paragraphs and covered 31 statistical (*Schedule A*) classifications. The Commission instituted the required peril-point investigation on October 22, 1959, and held public hearings December 1–4 and 7–10, 1959. The Commission submitted its report to the President on February 10, 1960.

On May 27, 1960, the Interdepartmental Committee on Trade Agreements issued public notice of the intention of the U.S. Government to participate in multilateral tariff negotiations—within the framework of the General Agreement on Tariffs and Trade—at Geneva, Switzerland, beginning in September 1960. On the basis of then available information, the Trade Agreements Committee announced that the United States expected to negotiate (1) with the Commission of the European Economic Community on behalf of its 6 member states (Belgium, France, West Germany, Italy, Luxembourg, and the Netherlands); (2) with 17 other contracting parties to the General Agreement (Australia, Austria, Canada, Chile, Denmark, the Dominican Republic, Finland, Haiti, India, Japan, New Zealand, Nicaragua, Norway, Peru, Sweden, the United Kingdom, and Uruguay); and (3) with 4 countries that have acceded to the General Agreement provisionally or have been or are expected to be invited to negotiate for accession thereto (Israel, Spain, Switzerland, and Tunisia).

On May 27, 1960, the President transmitted to the Tariff Commission a list of the commodities that were to be considered for possible concessions in the proposed negotiations. The President's list involved 450 tariff paragraphs or subparagraphs, each of which included one or more commodities and covered approximately 2,200 statistical (*Schedule A*) classifications or parts thereof. The Commission instituted the required peril-point investigation on May 27, 1960, and scheduled a public hearing in the investigation beginning July 11, 1960. On June 30, 1960, the close of the period covered by this report, the investigation was in process.

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[38] The tariff concessions involved in the negotiations were those contained in tariff items 1108 and 1109(a) in pt. I of schedule XX (the U.S. schedule) to the General Agreement on Tariffs and Trade. The note appended to item 1108 permits the United States to establish a tariff quota on imports of the specified wool fabrics.

## ACTIVITIES UNDER THE ESCAPE CLAUSE OF TRADE AGREEMENTS

Since 1943 all trade agreements that the United States has concluded under the Trade Agreements Act have incorporated a safeguarding clause, commonly known as the standard escape clause. The clause provides, in essence, that either party to the agreement may withdraw or modify any concession made therein if, after a concession, imports of the particular commodity enter in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive articles.

The Trade Agreements Extension Act of 1951 makes it mandatory for an escape clause to be included in all trade agreements that the United States concludes in the future, and, as soon as practicable, in all trade agreements currently in force. The clause must conform to the policy set forth in section 6(a) of the act. This section provides that no trade-agreement concession made by the United States shall be permitted to continue in effect when the product involved is, as a result, in whole or in part, of the duty or other customs treatment reflecting such concession, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

During the period covered by this report, the procedure for administering the escape clause of trade agreements was prescribed by section 7 of the Trade Agreements Extension Act of 1951, as amended, by Executive Order 10401 of October 14, 1952, and by Executive Order 10741 of November 25, 1957.

Section 7 of the Trade Agreements Extension Act of 1951, as amended, provides that the Tariff Commission, upon the request of the President, upon resolution of either House of Congress, upon resolution of either the Senate Committee on Finance or the House Committee on Ways and Means, upon its own motion, or upon application by any interested party, must promptly conduct an escape-clause investigation. The Commission is to make a report thereon within 6 months of the date it receives the application. As a part of each investigation, the Commission generally holds a public hearing at which interested parties are afforded an opportunity to be heard. Section 7(a) of the Trade Agreements Extension Act of 1951, as amended, requires the Commission to hold such a hearing whenever it finds evidence of serious injury or threat of serious injury, or whenever so directed by resolution of either the Senate Committee on Finance or the House Committee on Ways and Means. In arriving at its findings and conclusions the Commission is required, without excluding other factors, to consider the following factors expressly set forth in section 7(b): A downward trend of production, employment, prices,

profits, or wages in the domestic industry concerned, or a decline in sales, an increase in imports, either actual or relative to domestic production, a higher or growing inventory, or a decline in the proportion of the domestic market supplied by domestic producers.

Should the Commission find, as a result of its investigation and hearing, the existence or the threat of serious injury as a result of increased imports, it must recommend to the President the withdrawal or modification of the concession, or the suspension of the concession in whole or in part, or the establishment of an import quota, to the extent and for the time necessary to prevent or remedy such injury. Thereupon, the Commission must immediately make public its findings and recommendations to the President, including any dissenting or separate findings and recommendations, and publish a summary thereof in the *Federal Register*. When, in the Commission's judgment, there is no sufficient reason to recommend to the President that a trade-agreement concession be modified or withdrawn, the Commission must make and publish a report stating its findings and conclusions.

Executive Order 10401, which is discussed in a later section of this chapter,[39] directs the Tariff Commission to review developments with respect to products on which the United States has modified or withdrawn trade-agreement concessions under the escape-clause procedure, and to make periodic reports to the President concerning such developments.

### Status of Escape-Clause Investigations During 1959–60

On July 1, 1959, a total of 2 escape-clause investigations and 1 supplemental investigation were pending before the Commission.[40] During the ensuing 12 months the Commission instituted 11 additional investigations.[41] Of a total of 14 escape-clause investigations that were pending before the Commission at one time or another during the period July 1, 1959–June 30, 1960, the Commission at the close of that period had completed 7 investigations in addition to the supplemental investigation mentioned above; the remaining 6 investigations were in process.

With respect to the 7 investigations that the Commission completed during 1960 (exclusive of the supplemental investigation mentioned above), the Commission took the actions indicated below:

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[39] See the section of this chapter on the review of escape-clause actions under Executive Order 10401.

[40] The supplemental investigation related to stainless-steel table flatware, on which the Commission had reported to the President during 1958.

[41] Between Apr. 20, 1948, when it received the first application for an escape-clause investigation, and June 30, 1960, the Commission instituted a total of 110 investigations.

| Commodity | Vote of the Commission | |
|---|---|---|
| | For escape action | Against escape action |
| Mink skins | 0 | 6 |
| Red fescue seed (2d investigation) | 0 | 5 |
| Zinc sheet | 2 | 3 |
| Women's and children's leather gloves | 0 | 5 |
| Lamb, mutton, sheep, and lambs | 2 | 4 |
| Typewriters | 0 | 6 |
| Cotton typewriter-ribbon cloth | 4 | 0 |

The nature and status of the individual escape-clause investigations that were pending before the Commission at one time or another during the period July 1, 1959–June 30, 1960, are shown in the following compilation: [42]

*Escape-clause investigations pending before the U.S. Tariff Commission at one time or another during the period July 1, 1959–June 30, 1960*

| Commodity | Status |
|---|---|
| 1. Stainless-steel table flatware (Investigation No. 61; sec. 7) | *Origin of investigation:* Application by Stainless Steel Flatware Manufacturers Association, Englishtown, N.J.<br>*Application received:* Apr. 11, 1957.<br>*Investigation instituted:* Apr. 18, 1957.<br>*Hearing held:* July 16–19, 1957.<br>*Investigation completed:* Jan. 10, 1958.<br>*Recommendation of the Commission:* Withdrawal of concessions. (Commissioners Brossard, Schreiber, and Sutton recommended withdrawal of the concessions on stainless-steel table flatware valued under $3 per dozen pieces. Commissioners Talbot, Jones, and Dowling recommended withdrawal of the concessions on stainless-steel table flatware regardless of value.)<br>*Vote of the Commission:* 6–0.<br>*Action of the President:* On Mar. 7, 1958, the President announced that, in view of Japan's voluntary limitation of exports to the United States, he was |

[42] This compilation shows the status of only those escape-clause investigations that were pending before the Commission at one time or another during the period covered by this report. Lists of investigations instituted before the period covered by this report, and their status on various dates, have been given in earlier annual reports of the Commission. For a résumé of all escape-clause investigations conducted by the Commission between Apr. 20, 1948, and July 1, 1960, see U.S. Tariff Commission, *Investigations Under the "Escape Clause" of Trade Agreements: Outcome or Current Status of Applications Filed with the United States Tariff Commission for Investigations Under the "Escape Clause" of Trade Agreements, As of July 1, 1960,* 13th ed., 1960 [processed].

*Escape-clause investigations pending before the U.S. Tariff Commission at one time or another during the period July 1, 1959–June 30, 1960*—Continued

| Commodity | Status |
|---|---|
| 1. Stainless-steel table flatware —Con. | deferring action on the Commission's recommendation. He requested the Commission to keep the matter under review and to report to him as soon as practicable after Dec. 31, 1958.<br>*Supplemental investigation instituted:* Mar. 19, 1958.<br>*Hearing scheduled:* Mar. 17, 1959; postponed until Apr. 21, 1959.<br>*Hearing held:* Apr. 21–22, 1959.<br>*Supplemental report submitted to the President:* July 24, 1959.<br>*Action of the President:* By Proclamation 3323 (24 F.R. 8625) of Oct. 20, 1959, effective Nov. 1, 1959, the President established a tariff quota on imports of certain stainless-steel table flatware not over 10.2 inches in overall length and valued at under $3 per dozen pieces. The proclamation increased the duties on imports of the specified stainless-steel table flatware which are in excess of a total aggregate quantity of 69 million single units annually; for imports up to 69 million single units annually the rates of duty were not changed.<br>*References:* U.S. Tariff Commission, *Stainless-Steel Table Flatware: Report to the President on Escape-Clause Investigation No. 61 . . .*, 1958 [processed]; *Stainless-Steel Table Flatware: Supplemental Report to the President on Escape-Clause Investigation No. 61 . . .*, 1959 [processed]. |
| 2. Mink skins ---------- (Investigation No. 79; sec. 7) | *Origin of investigation:* Application by National Board of Fur Farm Organizations, Inc., Milwaukee, Wis.<br>*Application received:* Mar. 19, 1959.<br>*Investigation instituted:* Mar. 25, 1959.<br>*Hearing held:* June 23–25, 1959.<br>*Investigation completed:* Sept. 17, 1959.<br>*Recommendation of the Commission:* No modification of concession.<br>*Vote of the Commission:* 6–0.<br>*Reference:* U.S. Tariff Commission, *Mink Skins: Report on Escape-Clause Investigation No. 79 . . .*, 1959 [processed]. |
| 3. Red fescue seed (2d investigation). (Investigation No. 80; sec. 7) | *Origin of investigation:* Application by Pacific Northwest Chewings and Creeping Red Fescue Association, La Grande, Oreg., and others.<br>*Application received:* May 8, 1959.<br>*Investigation instituted:* May 18, 1959.<br>*Hearing held:* Aug. 11, 1959.<br>*Investigation completed:* Oct. 28, 1959.<br>*Recommendation of the Commission:* No modification of concession.<br>*Vote of the Commission:* 5–0.<br>*Reference:* U.S. Tariff Commission, *Red Fescue Seed: Report on Escape-Clause Investigation No. 80 . . .*, 1959 [processed]. |

*Escape-clause investigations pending before the U.S. Tariff Commission at one time or another during the period July 1, 1959–June 30, 1960*—Continued

| Commodity | Status |
|---|---|
| 4. Zinc sheet ---------- (Investigation No. 81; sec. 7) | *Origin of investigation:* Application by Ball Brothers Co., Muncie, Ind., and others.<br>*Application received:* July 14, 1959.<br>*Investigation instituted:* Aug. 20, 1959.<br>*Hearing held:* Nov. 3–4, 1959.<br>*Investigation completed:* Jan. 14, 1960.<br>*Recommendation of the Commission:* No modification of concession.<br>*Vote of the Commission:* 3–2.<br>*Reference:* U.S. Tariff Commission, *Zinc Sheet: Report on Escape-Clause Investigation No. 81 . . .*, 1960 [processed]. |
| 5. Women's and children's leather gloves. (Investigation No. 82; sec. 7) | *Origin of investigation:* Application by National Association of Leather Glove Manufacturers, Inc., Gloversville, N.Y.<br>*Application received:* Sept. 21, 1959.<br>*Investigation instituted:* Oct. 5, 1959.<br>*Hearing held:* Jan. 19–20, 1960.<br>*Investigation completed:* Mar. 21, 1960.<br>*Recommendation of the Commission:* No modification of concession.<br>*Vote of the Commission:* 5–0.<br>*Reference:* U.S. Tariff Commission, *Women's and Children's Leather Gloves: Report on Escape-Clause Investigation No. 7–82 . . .*, 1960 [processed]. |
| 6. Lamb, mutton, sheep, and lambs. (Investigation No. 83; sec. 7) | *Origin of investigation:* The Commission instituted the investigation on its own motion. An application for an investigation, requesting a restriction of imports of lamb and mutton only, was filed with the Commission on Nov. 17, 1959, jointly by the National Wool Growers Association, of Salt Lake City, Utah, and the National Lamb Feeders Association, of Denver, Colo.<br>*Investigation instituted:* Dec. 2, 1959.<br>*Hearing held:* Mar. 22–25, 1960.<br>*Investigation completed:* June 1, 1960.<br>*Recommendation of the Commission:* No modification of concession.<br>*Vote of the Commission:* 4–2.<br>*Reference:* U.S. Tariff Commission, *Lamb, Mutton, Sheep, and Lambs: Report on Escape-Clause Investigation No. 7–83 . . .*, 1960 [processed]. |
| 7. Typewriters ---------- (Investigation No. 84; sec. 7) | *Origin of investigation:* Application by Smith-Corona Marchant, Inc., Syracuse, N.Y., and Royal McBee Corp., Fort Chester, N.Y.<br>*Application received:* Nov. 10, 1959.<br>*Investigation instituted:* Dec. 9, 1959.<br>*Hearing held:* Mar. 29–31, 1960.<br>*Investigation completed:* May 10, 1960.<br>*Recommendation of the Commission:* No modification of concession.<br>*Vote of the Commission:* 6–0.<br>*Reference:* U.S. Tariff Commission, *Typewriters: Report on Escape-Clause Investigation No. 7–84 . . .*, 1960 [processed]. |

*Escape-clause investigations pending before the U.S. Tariff Commission at one time or another during the period July 1, 1959–June 30, 1960*—Continued

| Commodity | Status |
|---|---|
| 8. Cotton typewriter-ribbon cloth. (Investigation No. 85; sec. 7) | *Origin of investigation:* Application by certain domestic producers.<br>*Application received:* Dec. 30, 1959.<br>*Investigation instituted:* Jan. 11, 1960.<br>*Hearing held:* Apr. 20–21, 1960.<br>*Investigation completed:* June 30, 1960.<br>*Recommendation of the Commission:* Modification of concessions.<br>*Vote of the Commission:* 4–0.<br>*Action of the President:* The President has not yet acted.<br>*Reference:* U.S. Tariff Commission, *Cotton Typewriter-Ribbon Cloth: Report to the President on Escape-Clause Investigation No. 7–85 . . .*, 1960 [processed]. |
| 9. Barbed wire _____ (Investigation No. 86; sec. 7) | *Origin of investigation:* The Commission instituted the investigation on its own motion. On Nov. 28, 1958, the Commission rejected, on jurisdictional grounds, an application for an escape-clause investigation of barbed wire, filed by the Atlantic Steel Co., of Atlanta, Ga., and others. The Commission's rejection of the application was followed by litigation in the Federal courts. On Feb. 4, 1960, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the lower court's decision that the Tariff Commission must conduct an investigation with respect to barbed wire under section 7.<br>*Investigation instituted:* Feb. 9, 1960.<br>*Hearing held:* May 10, 1960.<br>*Investigation in process.* |
| 10. Cast-iron fittings for cast-iron soil pipe. (Investigation No. 87; sec. 7) | *Origin of investigation:* Application by the Cast Iron Soil Pipe Foundation, Los Angeles, Calif., and others.<br>*Application received:* Feb. 23, 1960.<br>*Investigation instituted:* Mar. 7, 1960.<br>*Hearing held:* May 31, 1960.<br>*Investigation in process.* |
| 11. Crude horseradish _____ (Investigation No. 88; sec. 7) | *Origin of investigation:* Application by the Vegetable Growers of St. Clair, Monroe, and Madison Counties of the State of Illinois, Granite City, Ill.<br>*Application received:* Mar. 21, 1960.<br>*Investigation instituted:* Mar. 28, 1960.<br>*Hearing scheduled:* July 19, 1960.<br>*Investigation in process.* |
| 12. Hatters' fur (2d investigation). (Investigation No. 89; sec. 7) | *Origin of investigation:* Application by the Hatters' Fur Cutters Association of the U.S.A., New York, N.Y.<br>*Application received:* June 1, 1960.<br>*Investigation instituted:* June 21, 1960.<br>*Hearing scheduled:* Not yet scheduled.<br>*Investigation in process.* |
| 13. Binding and baler twine _____ (Investigation No. 90; sec. 7) | *Origin of investigation:* Application by the Cordage Institute, New York, N.Y.<br>*Application received:* June 10, 1960.<br>*Investigation instituted:* June 24, 1960.<br>*Hearing scheduled:* Sept. 27, 1960.<br>*Investigation in process.* |

*Escape-clause investigations pending before the U.S. Tariff Commission at one time or another during the period July 1, 1959–June 30, 1960*—Continued

| Commodity | Status |
|---|---|
| 14. Hard-fiber cords and twines_ (Investigation No. 91; sec. 7) | *Origin of investigation:* Application by the Cordage Institute, New York, N.Y.<br>*Application received:* June 10, 1960.<br>*Investigation instituted:* June 24, 1960.<br>*Hearing scheduled:* Sept. 28, 1960.<br>*Investigation in process.* |

### Review of Escape-Clause Actions Under Executive Order 10401

The standard escape clause in trade agreements and section 7(a) of the Trade Agreements Extension Act of 1951, as amended, provide that any escape-clause action that the President takes with respect to a particular commodity will remain in effect only "for the time necessary to prevent or remedy" the injury.

By Executive Order 10401 of October 14, 1952, the President established a formal procedure for reviewing escape-clause actions. Paragraph 1 of that Executive order directs the Tariff Commission to keep under review developments with regard to products on which trade-agreement concessions have been modified or withdrawn under the escape-clause procedure, and to make periodic reports to the President concerning such developments. The Commission is required to make the first such report in each case not more than 2 years after the original escape-clause action, and thereafter at intervals of 1 year as long as the concession remains modified or withdrawn in whole or in part.

Paragraph 2 of Executive Order 10401 provides that the Commission is to institute a formal investigation in any case whenever, in the Commission's judgment, changed conditions warrant it, or upon the request of the President, to determine whether, and, if so, to what extent, the withdrawal, suspension, or modification of a trade-agreement concession needs to be continued in order to prevent or remedy serious injury or the threat thereof to the domestic industry concerned. Upon completing such an investigation, including a public hearing, the Commission is required to report its findings to the President.

During the period covered by this report the Tariff Commission reported to the President, under the provisions of Executive Order 10401, on developments with respect to the commodities listed in the following tabulation:

*Reviews of escape-clause actions conducted by the U.S. Tariff Commission during the period July 1, 1959–June 30, 1960*

| Commodity | Status |
|---|---|
| 1. Toweling of flax, hemp, or ramie (2d report). | *Report submitted to the President under par. 1:* July 24, 1959.<br>*Conclusion of the Commission:* The Commission unanimously concluded that institution of a formal investigation under par. 2 was not warranted.<br>*Action of the President:* On Oct. 13, 1959, the President concurred with the Commission's conclusion.<br>*Reference:* U.S. Tariff Commission, *Toweling of Flax, Hemp, or Ramie: Report to the President (1959) Under Executive Order 10401,* 1959 [processed]. |
| 2. Watch movements (4th report). | *Report submitted to the President under par. 1:* July 27, 1959.<br>*Conclusion of the Commission:* The Commission unanimously concluded that institution of a formal investigation under par. 2 was not warranted.<br>*Action of the President:* On Oct. 13, 1959, the President concurred with the Commission's conclusion.<br>*Reference:* U.S. Tariff Commission, *Watch Movements: Report to the President (1959) Under Executive Order 10401,* 1959 [processed]. |
| 3. Bicycles (3d report) ------ | *Report submitted to the President under par. 1:* Aug. 18, 1959.<br>*Conclusion of the Commission:* The Commission unanimously concluded that institution of a formal investigation under par. 2 was not warranted.<br>*Action of the President:* On Dec. 3, 1959, the President concurred with the Commission's conclusion.<br>*Reference:* U.S. Tariff Commission, *Bicycles: Report to the President (1959) Under Executive Order 10401,* 1959 [processed]. |
| 4. Dried figs (6th report) ------ | *Report submitted to the President under par. 1:* Aug. 31, 1959.<br>*Conclusion of the Commission:* The Commission unanimously concluded that institution of a formal investigation under par. 2 was not warranted.<br>*Action of the President:* On Oct. 28, 1959, the President concurred with the Commission's conclusion.<br>*Reference:* U.S. Tariff Commission, *Figs, Dried: Report to the President (1959) Under Executive Order 10401,* 1959 [processed]. |
| 5. Spring clothespins (1st report). | *Report submitted to the President under par. 1:* Dec. 7, 1959.<br>*Conclusion of the Commission:* The Commission unanimously concluded that institution of a formal investigation under par. 2 was not warranted.<br>*Action of the President:* On Feb. 5, 1960, the President concurred with the Commission's conclusion.<br>*Reference:* U.S. Tariff Commission, *Spring Clothespins: Report to the President (1959) Under Executive Order 10401,* 1959 [processed]. |

*Reviews of escape-clause actions conducted by the U.S. Tariff Commission during the period July 1, 1959–June 30, 1960*—Continued

| Commodity | Status |
|---|---|
| 6. Safety pins (1st report) | *Report submitted to the President under par. 1:* Dec. 31, 1959.<br>*Conclusion of the Commission:* The Commission unanimously concluded that institution of a formal investigation under par. 2 was not warranted.<br>*Action of the President:* On Feb. 5, 1960, the President concurred with the Commission's conclusion.<br>*Reference:* U.S. Tariff Commission, *Safety Pins: Report to the President (1959) Under Executive Order 10401,* 1959 [processed]. |
| 7. Clinical thermometers (1st report). | *Report submitted to the President under par. 1:* May 23, 1960.<br>*Conclusion of the Commission:* The Commission unanimously concluded that institution of a formal investigation under par. 2 was not warranted.<br>*Action of the President:* On July 6, 1960, shortly after the close of the period covered by this report, the President concurred with the Commission's conclusion.<br>*Reference:* U.S. Tariff Commission, *Clinical Thermometers, Finished or Unfinished: Report to the President (1960) Under Executive Order 10401,* 1960 [processed]. |

*Chapter 4*

# *Major Commercial Policy Developments in Countries With Which the United States Has Trade Agreements*[1]

## INTRODUCTION

One of the most important recent developments with respect to international trade has been the trend toward regional economic integration in certain areas of the world. All but a few nondollar countries with which the United States has trade-agreement obligations are members or prospective members of some regional economic or trade organization, or are members of a well-defined currency area within which the trade and payments policies of member countries generally follow a common pattern. The trend toward economic integration was further accentuated during the period covered by this report when, in February 1960, seven Latin American countries signed a treaty providing for the creation of a Latin American Free Trade Association (LAFTA). During the period covered by this report member countries of existing regional organizations, such as the European Economic Community (EEC) and the European Free Trade Association (EFTA), continued to implement the provisions of their respective treaties.

To a large extent, the development of international and regional trade organizations and the postwar restoration of international trade to a multilateral basis have taken place simultaneously. To the extent that their balance-of-payments positions have become increasingly favorable in recent years, the various countries that are contracting parties to the General Agreement on Tariffs and Trade (GATT), or members of the International Monetary Fund (IMF) or the Organization for European Economic Cooperation (OEEC), have been required to relax—and have in fact relaxed—their trade and payments restrictions. However, the immediate impetus to the further relaxation of such restrictions during the period covered by this report was largely a result of the move toward

[1] In this chapter the discussion of trade controls employed by countries with which the United States has trade agreements is generally limited to quantitative import restrictions, import licensing, and import deposits and surcharges. Export controls are not generally discussed, and import tariffs are discussed only to the extent that they reflect changes made pursuant to treaties that provide for regional economic integration.

external currency convertibility by many countries at the end of 1958 and early in 1959.[2] Establishment of external currency convertibility, made possible because of improved balance-of-payments and reserve positions, removed the basis for the maintenance by many countries of discriminatory trade restrictions. It also made it more difficult for them to justify retention of even those restrictions which are nondiscriminatory in nature but which are maintained for balance-of-payments reasons. Consequently, many countries not only have eliminated most of the discriminatory aspects of their trade restrictions, which had applied especially to dollar countries, but also have significantly reduced—and in some instances have virtually eliminated—their nontariff trade restrictions.

Although many countries still maintain some discriminatory trade restrictions, such restrictions result in large part from the operation of bilateral trade agreements under which the contracting parties agree to exchange specified quantities of certain commodities or to otherwise facilitate the trade in certain products. The number of such agreements has declined significantly in recent years, however, and it continued to do so during the period covered by this report. An increasing proportion of the remaining bilateral agreements maintained by countries with which the United States has trade-agreement obligations are with Soviet-bloc countries. Reference to the elimination of import discrimination by various countries during the period covered by this report does not necessarily preclude the existence of discriminatory restrictions that may result from the operation of bilateral trade agreements of the type mentioned above.

## OEEC COUNTRIES

All the countries of Western Europe with which the United States has trade-agreements obligations—except Finland—are members of the Organization for European Economic Cooperation and, until December 27, 1958, were also members of the European Payments Union (EPU).[3] OEEC was created shortly after the end of World War II as a cooperative agency designed to meet problems arising from the shortage of dollar exchange and to permit the Western European countries to work in closer harmony with the United States and Canada in the use of dollar aid that was extended to them.

[2] Developments with respect to currency convertibility were discussed in detail in *Operation of the Trade Agreements Program,* 12th report, pp. 109–111.

[3] The member countries of OEEC are Austria, Belgium, Denmark, France, the Federal Republic of Germany, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Sweden, Switzerland, Turkey, and the United Kingdom. Spain, the 18th country to join the OEEC, did not do so until July 20, 1959, after the EPU had been superseded by the European Monetary Agreement.

After the creation of OEEC in 1948, it became evident that some mechanism was necessary to make effective the cooperation of the OEEC countries in attaining the goals of multilateral trade and currency convertibility. The European Payments Union, which was established in 1950 to assist in achieving these objectives, made it possible for member countries to clear accounts among themselves on a multilateral basis and to provide credits automatically. From the beginning the Organization for European Economic Cooperation had intended to dissolve EPU as soon as it had achieved the objectives for which it was created.

From the time that OEEC and its subsidiary EPU were created, until the end of 1958, Western European countries experienced a sharp rise in national income, production, and productivity. During this period the balance-of-payments positions and holdings of foreign exchange reserves of most Western European countries improved to such an extent that they could increase the level of their trade liberalization and reduce the discriminations they maintained—especially against hard-currency countries. By the end of 1958 the conditions requisite to currency convertibility existed; in December of that year most Western European countries declared their currencies to be externally convertible. Simultaneously with the restoration of currency convertibility, EPU was abolished and replaced by the European Monetary Agreement (EMA).[4] Establishment of currency convertibility provided a further incentive for the liberalization of trade. By June 1960 the discriminatory aspects of import restrictions maintained by Western European countries had been largely eliminated, and the levels of trade liberalization by those countries were the highest since World War II.

The move toward trade liberalization and external currency convertibility by Western European countries marked the substantial achievement of the goals for which the Organization for European Economic Cooperation had been created. With the removal of many quotas and other barriers to trade, the elimination of the so-called dollar shortage, and the achievement of external currency convertibility, it was generally felt that OEEC should be replaced by a more comprehensive organization. In such an organization the United States and Canada (which are presently associate members of OEEC) would be full members, and the coordination of the economic policies of the United States, Canada, and Western European countries could be made more effective. By the end of the period covered by this report, discussions looking toward the replacement of OEEC by such an organization were underway.

Simultaneously with the achievement of the economic objectives of

[4] For a discussion of the move toward external currency convertibility and the transition from EPU to EMA, see *Operation of the Trade Agreements Program*, 12th report, pp. 109–112.

OEEC, new forms of economic cooperation began to emerge within OEEC. Principal among these were the European Economic Community or Common Market and the European Free Trade Association, to either one of which all but five OEEC members now belong. The Common Market Treaty, which entered into force on January 1, 1958, provides for complete removal of trade barriers between its six member countries, erection of a common external tariff vis-a-vis third countries, and harmonization of economic, financial, and monetary policies of individual member countries. Seven member countries of OEEC that are not members of EEC subsequently formed a separate regional organization known as the European Free Trade Association. This association, which was established by the convention that came into force on May 3, 1960, resembles the Common Market in that both aim to abolish tariffs and other barriers to trade in industrial commodities between the participating countries. Unlike the European Economic Community, however, EFTA will not have a common tariff. Each member country will retain its freedom with respect to the level of its external tariff and with respect to its use of external quantitative trade restrictions—subject to its obligations in these matters under such arrangements as GATT and OEEC. Moreover, the EFTA arrangement, unlike the Common Market, does not provide for a thorough economic integration of its member states, and does not have an elaborate set of institutions to guide its work. The actions taken by both the EEC and the EFTA countries with respect to tariffs and quantitative restrictions during the period covered by this report, as well as actions relating to quantitative restrictions taken by other OEEC countries with which the United States has trade agreements, are discussed in detail below.

### Member Countries of the European Economic Community

The Tariff Commission's 12th report on the operation of the trade agreements program discussed at length the implementation of the tariff and quota provisions of the Common Market Treaty and the actions of the Council of Ministers of the European Economic Community during the period July 1958–June 1959.[5] In brief, these actions consisted of (1) a reduction of 10 percent in the duties on products imported from EEC countries and the extension of this reduction under specified conditions to other countries entitled to most-favored-nation treatment, and (2) the transformation into global (Community) quotas of all bilateral quotas in effect in member states of the Community vis-a-vis other EEC countries, and an increase of 20 percent in the total value of each country's global quotas over the 1958 levels. For certain commodities the

[5] For a detailed discussion of the tariff and quota provisions that became effective during 1958–59, see *Operation of the Trade Agreements Program*, 12th report, pp. 136–139.

20-percent increase was offered to other OEEC countries on a reciprocal basis.

The 10-percent internal tariff reduction of January 1, 1959, which applied to all commodities, was extended by the EEC countries to all other members of OEEC, to all other contracting parties to GATT, and to all other countries that were entitled to most-favored-nation treatment. The extension of the reduction, which was temporary and unilateral, applied only in those instances in which it would not result in rates of duty lower than those contemplated for the Community's ultimate common external tariff. The extension of the reduction to third countries did not apply, however, to liberalized agricultural products or to commodities covered by the provisions of the treaty constituting the European Coal and Steel Community.

The duty reductions that were extended to third countries were not implemented simultaneously with the internal duty reductions. Rather, they became effective for particular countries at various times after January 1, 1959, and continued to become effective throughout the period covered by this report. Nearly all such reductions had been extended to third countries by most EEC countries by the end of the period covered by this report. The delay resulted from the fact that the European Economic Community's common external tariff was not approved by the Council of Ministers until February 13, 1960.[6]

Two additional major steps affecting tariffs and quotas were taken by the European Economic Community during the period covered by this report. The first of these was taken on January 1, 1960, when the Common Market countries engaged in a second round of internal quota increases. This action, which was similar in scope to the one taken on January 1, 1959, increased by an additional 20 percent over the 1959 levels the overall value of global (Community) quotas. Individual global commodity quotas were increased by a minimum of 10 percent, except for "small or nil" global quotas which were increased to 4 percent of national production. These latter quotas had been increased on January 1, 1959, to 3 percent of national production. Because of unilateral quota

[6] As approved by the Council of Ministers, the EEC's proposed common external tariff listed rates of duty for those commodities for which the common external duties were determined by simple mathematical averaging of the tariff rates of the member countries. "List G" commodities, for which external rates were to be determined by negotiation between EEC member countries rather than by averaging, were not included. These latter rates, except those for newsprint and petroleum products, were agreed to on Mar. 2, 1960. Besides these two commodities, the only others for which the rates of duty had not been determined at the end of June 1960 were commodities for which the duties were primarily specific, compound, or of a fiscal nature. The common external tariff is subject to such changes as may be necessary because of tariff negotiations with other countries.

increases, however, each of the EEC countries significantly exceeded the minimum prescribed for the second round of internal quota increases.

In November 1959 the EEC Council decided that the internal quota increase of January 1, 1960, might also be extended, for industrial commodities, to third countries. The quota increase of January 1, 1959, had been extended, for industrial commodities, to member countries of the OEEC on a reciprocal basis; the 1960 quota increase, however, could be unilaterally extended by individual member countries of EEC to other contracting parties to GATT and to all other countries entitled to most-favored-nation treatment.

On July 1, 1960,[7] the Common Market took another major step relating to tariffs and quotas. At that time EEC member countries reduced all import duties vis-a-vis each other by another 10 percent, thus bringing the total internal duty reductions to 20 percent. Unlike the 10-percent reduction of January 1, 1959, which had to be applied uniformly to all products, the reduction of July 1, 1960, could be applied unevenly to the various commodities as long as the reduction for each commodity was at least 5 percent and as long as the overall reduction amounted to 10 percent. Member states were urged, however, to reduce the duty on each product by 10 percent, and they agreed to do so. Inasmuch as the Federal Republic of Germany had unilaterally reduced its duties on most industrial products by about 25 percent in 1957, few of its industrial commodities were affected by the 1960 reduction.

As they did for the 1959 internal tariff reduction, the EEC Council of Ministers authorized extension of the internal tariff reduction of July 1, 1960—for industrial commodities—to other contracting parties to GATT and to other countries entitled to most-favored-nation treatment to the extent that the resultant rates of duty were not below those provided in the common external tariff. Unlike the extension of the 1959 reduction, extension of the 1960 reduction was on an optional basis. The optional extension also applies to nonliberalized agricultural products.

Besides the above-mentioned tariff and quota actions, which were taken by EEC countries pursuant to provisions of the Common Market Treaty or to decisions of the EEC Council of Ministers, all EEC countries engaged in additional significant quota liberalization during the period covered by this report. These actions not only increased the general level of quota liberalization for EEC countries but, in most instances, also narrowed the difference between the level of liberalization for imports from OEEC countries and the level for imports from the dollar area.

During the period covered by this report France eliminated its discriminatory treatment for many dollar-area commodities. By July 1, 1960, discrimination against dollar imports existed for fewer than 25

[7] The day after the close of the period covered by this report.

tariff items, including 2 industrial products. Italy also significantly increased its level of dollar liberalization during the period covered by this report by removing licensing requirements—especially for industrial products.

During 1959–60 the Federal Republic of Germany began to implement the provisions of the GATT liberalization decision of May 1959.[8] Pursuant to that decision West Germany on July 1, 1959, and January 1, 1960, liberalized or partially liberalized imports of a wide range of industrial and agricultural commodities and narrowed the difference in treatment of imports from OEEC countries and those from the dollar area. In June and July 1960 West Germany effectively eliminated additional quota restrictions by removing individual licensing requirements for certain agricultural commodities and for most of the few remaining nonagricultural products subject thereto in which U.S. suppliers had a significant interest.

Although Belgium–Luxembourg imposed licensing restrictions on imports of crude petroleum and certain oils during 1959–60, all three Benelux countries maintained very high levels of trade liberalization during that period; imports of relatively few commodities were subject to discriminatory treatment. In July 1959 the Netherlands removed the licensing requirement for imports of most commodities from nearly all sources other than countries with which it had bilateral trade agreements. Previously, all imports from the dollar area had been subject to licensing but, for the most part, licenses had been issued automatically. Licenses are still required for imports of certain agricultural and other commodities. The number of commodities for which licenses are still required, either by the Netherlands or as part of the Benelux quota system, is small compared with the total number of tariff classifications. On January 1, 1960, the Netherlands also eliminated the import quotas for 12 categories of agricultural and other commodities which had previously been licensed on a liberal basis.

During the period covered by this report the Benelux countries also generally relaxed the import restrictions they maintain as a group. Effective November 3, 1959, they relaxed their restrictions on apples and pears by permitting their importation into the Benelux countries from any source in unlimited quantities until further notice. The new global quotas that the Benelux countries established for 1960 provided for a general increase in the level of authorized imports for commodities subject thereto. The Benelux global quota list is divided into two parts. The first part is applicable to all countries, including Common Market countries. That list for 1960 contains two fewer commodities than it did in 1959, but for all remaining commodities the quotas were increased over those

[8] See *Operation of the Trade Agreements Program*, 12th report, pp. 41–45 and 114–115.

in 1959. The second part of the 1960 global quota list applies only to other EEC countries; it contains six fewer tariff items than the 1959 list, but provides quota increases for all remaining items.[9]

By the end of June 1960 the level of the European Economic Community's liberalization exceeded 90 percent for both the dollar area and the OEEC area.[10] The level of EEC's liberalization for imports from OEEC countries had previously exceeded that figure. The period covered by this report, however, marked the first time that such a level of liberalization had been reached for imports from the dollar area. Attainment of that level reflected the significant progress that had been made by the EEC countries in relaxing restrictions and eliminating discrimination.

One of the most important developments during the period covered by this report was the decision by the EEC Council of Ministers, on May 12, 1960, to accelerate the implementation of many of the provisions of the Common Market Treaty. Particularly important was the decision to speed up the implementation of the tariff and quota provisions. This decision, one of the most significant since the Common Market Treaty became effective, was made possible by the generally favorable economic and financial position of the Common Market countries, the narrowing of differences between the economic policies of the various member countries, the rapid liberalization of trade between member countries and vis-a-vis nonmember countries, and the generally favorable reaction of industries within the EEC countries to the establishment of the Common Market.

In its decision of May 12 the Council of EEC decided that an additional 10-percent reduction in internal duties on industrial commodities would be made by the end of 1960—a full year ahead of schedule—thus bringing the total internal duty reduction by the end of 1960 to 30 percent. Internal duties on nonliberalized agricultural products were to be reduced an additional 5 percent, thus bringing the total reduction on nonliberalized agricultural commodities to 25 percent by the end of 1960—5 percent more than is prescribed for that date in the Common Market Treaty. No provision was made for accelerated reduction of internal duties on liberalized farm products; by the end of 1960, therefore, they will have been reduced by 20 percent. The Council also agreed that by mid-1961 it

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[9] In March 1960 the Benelux Economic Union adopted a new customs tariff based on the Brussels Nomenclature.

[10] In this chapter, percentages of import trade liberalization for OEEC countries are based (unless otherwise indicated) on the private import trade of member countries, in a specified base year, that has been liberalized. For all OEEC countries except West Germany, Spain, and Austria, the base year for calculation of private imports from other OEEC countries is 1948; for West Germany it is 1949; for Spain, 1950; and for Austria, 1952. For imports into all OEEC countries from the United States and Canada, the base year for calculation is 1953.

would decide whether it would increase to 20 percent the 10-percent internal duty reduction scheduled for the end of 1961.

The acceleration decision of May 12, 1960, also affects industrial quotas maintained between EEC member countries. These quotas, which were originally to be eliminated no later than the end of 1969, will be completely eliminated by the end of 1961. Although the acceleration decision also affects internal quotas on agricultural commodities, those quotas will not be eliminated as rapidly as the quotas for industrial products. Internal agricultural quotas are to be increased by 20 percent annually, and quotas that are small or nil will be set for 1961 at 5.2 percent of national production. For certain agricultural commodities, however, overall annual import quotas are to be fixed at the level of average imports of those commodities from other EEC countries during the years 1955–57, plus an additional 10 percent each year for 1959, 1960, and 1961. Any additional steps that may be taken with respect to agricultural quotas will depend to a large extent on the adoption by the Common Market of a common agricultural policy.

The Council's acceleration decision also provided an earlier initial move toward a common external tariff than had been provided for in the Common Market Treaty. The first step, originally scheduled for the end of 1961, will now take place by December 31, 1960. In most instances the original plan for moving toward the common external tariff involved increasing or reducing the external duties of individual EEC countries by 30 percent of the difference between the individual EEC country duties in effect on January 1, 1957, and those of the common external tariff. Under the new decision the move toward a common external tariff will be calculated on the basis of the common external tariff reduced by 20 percent. No resultant rate of duty, however, is to be lower than the rate set forth in the common external tariff. The rates of duty on commodities for which the individual country duties in effect on January 1, 1957, differ by 15 percent or less in either direction from the level of the common external tariff reduced by 20 percent, must be shifted to the common tariff rates. At the 1960–61 GATT tariff negotiations, action will be taken to consolidate, wholly or in part, the 20-percent reduction used in calculating the approximation to the common external tariff. Pending that consolidation the benefits from the reduction will be provisionally extended to GATT members.

The general plan for the accelerated move toward the common external tariff is, however, modified for many commodities. Commodities exempted from accelerated reduction are those agricultural commodities which are to be provided for in the EEC's common agricultural policy. For a number of other commodities (those for which West Germany has unilaterally reduced the rates of duty since January 1, 1957, and sensitive list

G items) reductions will be accelerated on different bases than those provided in the general plan.

### Member Countries of the European Free Trade Association

On May 3. 1960, the Convention Establishing the European Free Trade Association came into force for seven member countries of OEEC that are not members of the European Economic Community. Establishment of the European Free Trade Association had been preceded by an attempt to create a free-trade area embracing all member countries of OEEC, within which the Common Market countries would have functioned as a unit. Primarily because of failure to reach agreement on the treatment that should be accorded agricultural products and because of irreconcilable differences between France's desire for a common external tariff and the United Kingdom's preference for individual external tariff arrangements, the negotiations for a more comprehensive free-trade area collapsed in December 1958.[11]

As an alternative to the proposed free-trade area embracing all OEEC countries, seven OEEC countries that are not members of EEC—Austria, Denmark, Norway, Portugal,[12] Sweden, Switzerland, and the United Kingdom—entered into negotiations looking toward a more limited type of free-trade arrangement. From those negotiations emerged the Convention Establishing the European Free Trade Association.

Unlike the Common Market Treaty, which provides for a common external tariff and for the harmonization and coordination of the economic, financial, and social policies of member countries, the Convention Establishing the European Free Trade Association permits each member country to maintain its own external tariff and its own external quantitative trade restrictions. Moreover, the EFTA convention recognizes only the desirability of coordinating economic and financial policies. It does not provide an elaborate set of institutions to guide its work, nor does it envisage the ultimate economic integration of its member states, as the EEC does.

For member countries whose exports of agricultural products are an especially important element in intra-association trade, the EFTA convention takes into account special agreements that have been and may hereafter be entered into between member states to facilitate the trade in those products. These agreements are to continue in force as long as EFTA remains effective, and the tariff provisions of any such agreements are to be applied equally to all other members of the association. Similar

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[11] For a discussion of the negotiations for an OEEC-wide free-trade area and of the negotiations leading to the Convention Establishing the European Free Trade Association, see *Operation of the Trade Agreements Program,* 12th report, pp. 157–164.

[12] The United States does not have a trade agreement with Portugal.

provisions in the convention also apply to the trade in specified fish and other marine products.

The more important provisions of the EFTA convention are those that relate to the internal duties and quantitative restrictions maintained by member countries. The convention provides for the gradual abolition, during a transitional period ending before January 1, 1970, of all internal duties on industrial commodities [13] traded between member states. Because the convention permits individual member countries to retain their external tariffs, it was necessary to specify the industrial commodities to which the duty reductions would apply so that imports from outside the association could not be initially shipped to a low-duty member country and subsequently reshipped to a higher duty member country, thus avoiding the higher duty. To prevent such a practice, industrial commodities traded within the association are, in general, to be accorded the reduced rates of duty only if they can qualify for such treatment under any one of the three following conditions: (1) That they have been wholly produced within the EFTA area; (2) that they have been produced within the area of the association and the value of non-area materials used in their production does not exceed 50 percent of the export price of the goods; (3) that they have been produced within the area of the association by specified processes.

Reduction of the duties on industrial commodities traded between member states which, in general, meet any one of the above-mentioned criteria is to be made from the duties that were actually being applied by the member states on January 1, 1960.[14] The first reduction in the import duties on industrial commodities took place on July 1, 1960, and all such duties are to be abolished before January 1, 1970.[15] The timetable for duty reductions by member countries of EFTA is shown in the following tabulation:

| | |
|---|---|
| July 1, 1960 | 20 percent |
| Jan. 1, 1962 | 10 percent |
| July 1, 1963 | 10 percent |

[13] The term "industrial commodities" includes all commodities except the agricultural products and fish and other marine products specially provided for in the convention.

[14] Portugal introduced a revised tariff on Jan. 1, 1960, but the duties prescribed therein were not actually applied until Jan. 6, 1960. The EFTA Council decided that where the Jan. 6 rates of duty differed from the Jan. 1 rates the former would be considered the basic rates. The basic rates of duty for Denmark are those rates applied to imports from other EFTA countries on Mar. 1, 1960.

[15] Special provisions apply to the elimination of internal duties by Portugal. The normal import duty reductions are applicable only to those products that Portugal exports in quantities that equal or exceed 15 percent of domestic production and to certain other specified commodities. Although Portugal is required to reduce its internal duties on all other commodities by 20 percent on July 1, 1960, it is not required to eliminate them completely until the end of 1979.

| | |
|---|---|
| Jan. 1, 1965 | 10 percent |
| Jan. 1, 1966 | 10 percent |
| Jan. 1, 1967 | 10 percent |
| Jan. 1, 1968 | 10 percent |
| Jan. 1, 1969 | 10 percent |
| Jan. 1, 1970 | 10 percent |

These prescribed reductions in internal duties may be accelerated by decision of the Council of EFTA or by action of individual member states.[16]

Import quotas maintained for industrial commodities by the EFTA countries vis-a-vis each other are also to be eliminated gradually. The EFTA convention provides that quotas maintained by member states with respect to goods imported from other member states must be increased, beginning July 1, 1960, by not less than 20 percent of the quotas existing in 1959. For those quotas which are also extended to third countries, the July 1, 1960, increase must be not less than 20 percent of that part of the quota that relates to member states. The initial quota increases mentioned above became effective on July 1, 1960, as scheduled, and quotas which were negligible or nil were increased to a "suitable level." Similar increases, based on the size of the previous year's quota, are to become effective on July 1 of each subsequent year. All internal import quotas on industrial products are to be eliminated before January 1, 1970.[17]

Besides implementing the initial tariff and quota provisions of the EFTA convention on July 1, 1960, individual member states of the association liberalized many of their import quotas—especially vis-a-vis the dollar area—during the period covered by this report. In October 1959 Austria liberalized imports of a wide range of industrial commodities from the dollar area, thus increasing its level of dollar liberalization from 40 to 45 percent. Except for some textile products, this action eliminated—for industrial commodities—the discrimination between imports from OEEC countries and those from the dollar area. In the agricultural sector, dollar discrimination still remained for corn (maize), barley, rye, and poultry. Austria's liberalization measure of October 1959 did not affect imports from OEEC countries; the level of liberalization for private imports from that area was already about 90 percent. One of the principal reasons for the wide spread between Austria's levels of liberalization for the OEEC and the dollar areas was that a larger number of agricultural products, especially grains, had been liberalized for the OEEC countries but not for the dollar area.

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[16] Internal export duties on industrial commodities, in contrast with internal import duties on such products, are to be eliminated before Jan. 1, 1962.

[17] Internal quotas for exports of industrial products to other member states are scheduled to be eliminated before Jan. 1, 1962.

Austria believed that liberalization of imports of grains from the dollar area would jeopardize the country's agricultural stabilization program, but it nevertheless desired to accord the same treatment to such imports from the two areas. On April 16, 1960, therefore, Austria deliberalized imports of grains (mostly rye and feed grains) from OEEC countries by making all grains subject to state trading. Under the OEEC Code of Liberalization, commodities that are subject to state trading are exempt from the provisions relating to liberalization, and levels of liberalization under that code are computed solely on the basis of private imports. Austria's action with respect to grains therefore resulted in a substantial increase in the level of liberalization for the dollar area and a substantial decrease in the spread between the official levels of liberalization for the OEEC and the dollar areas.

During the period covered by this report Denmark also significantly liberalized its import trade, and effectively eliminated all significant discrimination against imports from the dollar area. At the end of 1959, Danish quotas open to OEEC countries were also opened to dollar countries on equal terms, thus eliminating most of the discrimination against dollar imports. Additional extensive liberalization took place on March 1, 1960, when many import quotas were abolished and the levels of import liberalization were increased to about 97 percent for the dollar area and to about 96 percent for the OEEC area. Simultaneously, Denmark revised its rates of duty on imports of a wide variety of commodities. Although the revised rates of duty were generally higher than the old ones, the rates on many individual raw materials and on some semimanufactured products were reduced. These tariff changes were made primarily so that Denmark could adjust more readily to the competitive situation engendered by the establishment of EFTA.

On July 1, 1959, Norway eliminated licensing requirements for a number of commodities imported from both the OEEC and the dollar areas. Many of the commodities, however, had previously been licensed on a liberal basis, and the effect of the action on Norway's level of trade liberalization was therefore small. Except for a few minor commodities, Norway eliminated all discrimination against imports from the United States on January 1, 1960, at which time it opened to the United States its quotas for imports of automobiles and light trucks. By June 30, 1960, Norway's level of liberalization was about 82 percent for imports from the OEEC area and 92 percent for imports from the dollar area.

During the period covered by this report Sweden liberalized imports of a number of commodities from the dollar area and, as a result, almost completely eliminated discrimination against dollar imports. Most of the remaining discrimination is in the agricultural sector, in which 13 groups of commodities continue to be subject to licensing when imported from

the dollar area but may be freely imported from other OEEC countries. By June 30, 1960, Sweden's level of import liberalization exceeded 90 percent for both the OEEC and the dollar areas.

During 1959–60 Switzerland continued to maintain high and virtually nondiscriminatory levels of trade liberalization for imports from both the OEEC and dollar areas.[18]

The period covered by this report was one of continued progress by the United Kingdom in the field of import liberalization. During the period, the United Kingdom freed from import control most of the remaining commodities subject thereto, except those imported from Japan and Soviet-bloc countries. Only a small number of commodities now remains subject to restriction when imported into the United Kingdom, and only a few imports from the dollar area are now subject to discriminatory treatment.

The significant progress made by the United Kingdom in liberalizing its import trade, resulted in the discontinuance of the British token-import plan in November 1959. That plan, which was adopted in 1946, permitted token shipments to the United Kingdom of specified commodities, the importation of which from the United States and other hard-currency countries was generally prohibited. The purpose of the plan was to make it possible for eligible foreign traders—particularly those whose branded products had become widely known to the British public—to maintain or resume their connections in British markets.[19] From 1946 until recent years the token-import plan constituted the only basis under which United States firms could gain access to the United Kingdom market for a large number of specified manufactured products. Increased liberalization of dollar imports by the United Kingdom in recent years, however, significantly reduced the number of commodities covered by the plan and on November 9, 1959, it was discontinued. Only three commodities covered by the token-import plan remained unliberalized at the time the plan was abandoned; these commodities continued to be subject to quantitative restriction at the close of the period covered by this report.

## Other OEEC Countries

### *Greece*

Greece's postwar foreign trade has been characterized by a growing trade imbalance, particularly with Western countries, which has contrib-

[18] On Jan. 1, 1960, Switzerland placed in effect a new tariff schedule based on the Brussels Nomenclature.

[19] In 1955 the regulations were broadened to provide that any manufacturer of an article in a specified commodity group might apply for a share of any available quota balance announced for that group, regardless of whether or not he was a prewar exporter to the United Kingdom.

uted to a serious balance-of-payments problem. Greece depends to a large extent on exports of agricultural products for its foreign exchange. Increased agricultural surpluses and problems in other sectors of the country's economy have resulted, especially during recent years, in increased use of bilateral trade arrangements (including barter transactions), an increased volume of trade with Soviet-bloc countries, and increased protection of certain domestic products by the imposition or intensification of import restrictions.

During 1959–60 Greece imposed restrictions on imports of textiles by making their importation subject to advance payments equal to 280 percent of the c.i.f. value of the imported commodity. Coffee, sugar, and various types of machinery and spare parts were added to a list of commodities (list A) for which import licenses are required. During the early part of the period covered by this report, imports of rice were embargoed. The embargo was subsequently lifted, and imports of rice were subjected to licensing under regulations that limited imports to 50 percent of the quantity of rice exported from Greece. Imports of a number of other commodities were also made subject to license or quota during 1959–60, while quotas on tires and tubes were increased and the quota on frozen meat was removed.

During 1959–60 Greece placed in effect a new import tariff based on the Brussels Nomenclature. In the new tariff, which became effective in April 1960, many former specific rates of duty were converted to ad valorem rates. The rates of duty in the new tariff, which include the 75-percent surtax previously levied on the basic duty, are generally higher than those in the old tariff.

*Iceland*

On February 20, 1960, Iceland adopted a stabilization program that provided for a comprehensive reorganization of the country's economy and its international trade policies. As part of the overall stabilization program, Iceland abolished many special export incentives, replaced its multiple-exchange-rate system with a single exchange rate and, in June 1960, reversed the policy of restrictive trade practices that it had maintained for many years. Elimination of the licensing requirement for many commodities increased Iceland's very low level of trade liberalization to about 60 percent (based on imports from all countries in 1958). Quotas were opened for the import of many additional commodities.

*Turkey*

Since Turkey adopted its comprehensive stabilization program in 1958 it has generally regulated the value and composition of its import trade by means of quota programs. The third in the series of such programs, which became effective for a 6-month period beginning August 3, 1959, was larger in value than either of the previous two. The third import

quota program, with a value of about $240 million, embraced three groups of commodities. The first group, with an aggregate value of $170 million, consisted of commodities for which individual import quotas were established; of this total, $115 million was allocated for imports from dollar and European Monetary Agreement countries and $55 million for imports from countries with which Turkey had bilateral trade agreements. The second group consisted of commodities that could be imported—up to a total value of $45 million—under a newly established automatic allocation system which made essentiality the criterion for importing. A third group, which comprised those commodities that could be imported freely, contained 110 more tariff items than it did during the previous period; it was estimated that imports of commodities in this group would be valued at about $25 million.

Turkey's fourth import quota program, announced in February 1960, increased to about 500 the number of liberalized tariff items and increased the estimated value of imports of liberalized commodities to $75 million. The value of items on the automatic allocation list remained at about $45 million, but the value of commodities subject to global quotas was reduced to $130 million ($100 million for dollar and EMA countries and $30 million for bilateral trade-agreement countries). The aggregate value of commodities to be imported under the fourth import program was established at about $250 million, representing an increase of $10 million over that for the preceding period. Late in the period covered by this report, however, Turkey announced that, because of balance-of-payments difficulties, the aggregate value of quotas for the fourth import program had been reduced by $35 million.

## THE OVERSEAS STERLING AREA

The United Kingdom is the most important member of the sterling area, not only because of its leading trade position but also because it is "banker" for the area and repository of the area's official foreign-exchange reserves. Other countries of the sterling area hold the bulk of their exchange reserves in sterling, and settle most of their international transactions in terms of that currency.

Although each independent member of the sterling area determines its own commercial policy, the policies of the individual member countries are coordinated with those of the United Kingdom at the annual conferences of the Commonwealth finance ministers, and a general trade policy for the sterling area is formulated. Developments in the commercial policies of the overseas sterling-area countries [20] must be viewed, there-

[20] Sterling-area countries other than the United Kingdom, Ireland, and Iceland. Commercial policy developments in the overseas sterling area discussed in this report are limited to developments in those member countries which are independent and which have trade agreements with the United States.

fore, in relation to commercial policy developments in the United Kingdom.[21]

The most important commercial-policy actions taken by the overseas sterling-area countries during the period covered by this report, which relate principally to the removal of import restrictions, were a logical sequel to the move toward external convertibility in December 1958. Establishment of external convertibility for sterling eliminated the justification for discrimination against dollar imports by both the United Kingdom and other sterling-area countries. It led directly to accelerated removal of such restrictions and to a substantial increase in the level of import liberalization. At the beginning of the period covered by this report the countries of the overseas sterling area maintained substantial discrimination against imports from the dollar area; by June 30, 1960, they had virtually eliminated such discrimination. The elimination of discrimination against imports from the dollar area would have had little practical significance had the levels of trade liberalization for the overseas sterling area countries remained low. With the removal of discrimination, however, the levels of trade liberalization in overseas sterling-area countries—already high for many of them—were increased even further; in some instances virtually all nontariff trade restrictions were removed.

Among the overseas sterling-area countries, Ghana, the Federation of Malaya, and the Federation of Rhodesia and Nyasaland have achieved the greatest progress in liberalizing their import trade. Until the beginning of the period covered by this report these three countries maintained substantial discrimination against imports from the dollar area. Most of this discrimination resulted from the requirement that imports of commodities from dollar countries be licensed specifically, whereas commodities from sterling-area and OEEC countries generally could be freely imported under open-general license. Most of this discrimination was eliminated during 1959–60. By the end of the period covered by this report, restrictions maintained by these three countries on imports from the dollar area affected only a few commodities and were also largely maintained vis-a-vis all other countries. In Ghana and Malaya, for example, the few remaining restrictions that apply to imports of commodities from the dollar area are maintained primarily for reasons of health and security. Those restrictions are also generally applicable to imports from all other countries and are therefore nondiscriminatory. The few import restrictions maintained by Rhodesia and Nyasaland apply principally to agricultural products and are generally not discriminatory. As a result of the actions taken by Ghana, the Federation of Malaya, and the Federation of Rhodesia and Nyasaland, importation of commodities into

[21] Commercial policy developments in the United Kingdom are discussed in the section of this chapter on member countries of the European Free Trade Association.

those countries is now permitted not only without discrimination but—except for import duties—generally without restrictions of any kind.

The import policy of Australia and New Zealand is somewhat less liberal than that of the three countries mentioned above. At the beginning of the period covered by this report both Australia and New Zealand maintained substantial discrimination against imports from the dollar area. By the end of that period, however, only motor vehicles and parts therefor were subject to discriminatory treatment when imported into Australia and New Zealand from the dollar area. Although both Australia and New Zealand have virtually abolished import discrimination, they still restrict the importation of a wide range of commodities from all countries. Australia still requires import licenses for about 200 commodities; New Zealand still maintains restrictions with respect to the majority of the commodities imported into the country.

Adequacy of foreign-exchange reserves is one of the most important of the factors that determine the level of import liberalization for any country. Although the remaining countries of the overseas sterling area—Burma, Ceylon, India, Pakistan, and South Africa—have made significant progress in liberalizing their trade, they have not done so to the same extent as the first group of countries mentioned above because of their need to conserve foreign exchange. Nevertheless, Burma, India, Pakistan, and South Africa have eliminated discrimination, except for a few commodities, against imports from the dollar area; all but South Africa, which had abolished its discriminatory import practices a few years earlier, did so during the period covered by this report. Nondiscriminatory restrictions applied by these overseas sterling-area countries have also been relaxed somewhat, but, in general, they still remain quite restrictive. In many instances the nondiscriminatory restrictions that these countries maintain are merely technical; that is, although licenses are required for imports, such licenses are often freely issued. In other instances import licenses are freely issued, but only within the limits of an overall import exchange quota.

## MEMBER COUNTRIES OF THE PROPOSED LATIN AMERICAN FREE TRADE ASSOCIATION

The Commission's 12th report on the operation of the trade agreements program discussed in some detail the history of the studies and negotiations that have been undertaken with a view to creating a Latin American regional market.[22] These studies and negotiations culminated in February 1960 when seven Latin American countries—Argentina, Brazil, Chile, Mexico,[23] Paraguay, Peru, and Uruguay—signed the Mon-

[22] See *Operation of the Trade Agreements Program*, 12th report, pp. 164–166.

[23] Mexico is the only signatory country that is classified as a dollar country by the IMF.

tevideo Treaty, which provides for the creation of a Latin American Free Trade Association. The treaty will enter into force for the first three ratifying countries 30 days after the deposit of the third instrument of ratification, and for the other signatories, 30 days after their respective instruments have been deposited. It is to remain open for signature by other Latin American countries that may wish to join the association. By the end of the period covered by this report no signatory country had deposited its instrument of ratification.

The treaty for the creation of the Latin American Free Trade Association provides for the reduction and elimination, during a 12-year transitional period, of substantially all import duties and restrictions on existing trade between member countries. Like the member countries of the European Free Trade Association, but unlike those of the European Economic Community, member countries of the proposed Latin American Free Trade Association will retain their individual external tariffs vis-a-vis third countries. Reduction and elimination of import duties and other trade restrictions by members of LAFTA is specifically required only for those commodities actually traded between member countries. Commodities for which the duties are to be reduced will be the subject of periodic negotiations, and reductions may be applied unevenly to the commodities involved as long as the prescribed minimum average reductions are made. The only provision for eliminating restrictions on commodities not actually traded between member states is that member states shall endeavor to liberalize them. The extent to which member states will liberalize them will depend on the results of negotiations between member countries.

Four member countries of the proposed Latin American Free Trade Association—Brazil, Chile, Peru, and Uruguay—are contracting parties to the General Agreement on Tariffs and Trade and thus have trade-agreement obligations with the United States under that agreement. Argentina and Paraguay are parties to bilateral trade agreements with the United States. Mexico and the United States have no trade-agreement obligations with each other.[24] All of the member countries of the proposed LAFTA are members of the International Monetary Fund, which encourages the simplification or abolition of multiple-exchange-rate systems, and seeks in other ways to create and maintain orderly exchange procedures. The Fund also advises the Contracting Parties to the General Agreement whether individual contracting parties that are also members of the Fund are in a position to relax or remove quantitative import restrictions that they maintain for balance-of-payments reasons.

[24] Because the United States has no trade-agreement obligations with Mexico, commercial policy developments in the LAFTA area discussed in this report are not generally applicable to that country.

As the member countries of the proposed LAFTA have progressed toward the formation of a free-trade area, they have also continued to simplify or eliminate many of their trade restrictions and multiple-exchange practices, which they are obliged to do as members of the International Monetary Fund or as contracting parties to the General Agreement. Few of these countries now maintain licensing requirements or impose other quantitative restrictions on imports. During the period covered by this report, Peru abolished its remaining quantitative restriction—that on imports of automobiles. Uruguay eliminated the quotas for many commodities, and for some, the licensing restrictions, but it still prohibits the importation of certain other commodities. Licensing and other quantitative restrictions maintained by member countries of the proposed LAFTA with respect to imports from most areas of the world, including the dollar area, now consist chiefly of those maintained by Uruguay, those maintained on nonessential or luxury goods by Brazil, and those which are the subject of bilateral agreements.

For many years maintenance of multiple exchange rates constituted one of the most important methods by which member countries of the proposed LAFTA controlled the quantity and composition of their imports. At the end of 1955, for example, six of the seven member countries of LAFTA maintained multiple-exchange-rate systems.[25] In recent years, however, these countries have abandoned their multiple-exchange-rate systems and replaced them with unitary-rate systems. Significant changes in exchange-rate systems during the period covered by this report included the elimination by Peru of its dual fluctuating exchange rates and their replacement by a single fluctuating rate, and the virtual establishment of a unitary exchange rate by Uruguay.[26] By the end of the period covered by this report, therefore, all member countries of the proposed LAFTA except Uruguay and Brazil maintained unitary exchange rates.

Although most LAFTA countries have largely eliminated quantitative restrictions and multiple-exchange rates, they still maintain import restrictions, principally in the form of prior import deposits and import surcharges; in many instances these restrictions have been intensified to compensate for the elimination of other restrictions. During the period covered by this report Argentina, which maintains a unitary exchange rate and, in general, no quantitative restrictions, eliminated the remainder of its requirements for prior import deposits and freed many commodities from import surcharge requirements. Import surcharges now constitute Argentina's principal method (other than import duties)

[25] Peru maintained dual rates of exchange.

[26] Presumably the only reason Uruguay is not officially classified as having a unitary rate of exchange is that it levies export taxes on exchange proceeds rather than on the value of the exports themselves and therefore, in effect, maintains multiple export rates.

of restricting imports, but these surcharges will be combined with the regular import duties in the new tariff schedule which is being prepared. During 1959–60 Chile reduced the level of required prior deposits for a wide range of imported commodities and, for others, eliminated the deposit requirement. However, it imposed surcharges on imports of commodities for which the prior-deposit requirement was eliminated. Paraguay also increased the level of its import surcharges, but substantially reduced the level of required prior import deposits for most commodities and eliminated them entirely for a few others. Aside from import duties, the principal restrictions on commodities entering Peru from most countries are import surcharges, many of which were eliminated during 1959–60. During the period covered by this report Uruguay imposed prior-deposit requirements for most imported commodities as it relaxed other restrictive elements in its import program.

The need to conserve foreign exchange is, of course, one of the basic reasons for employing a system of import deposits or import surcharges. The trend during 1959–60, as well as during other recent years, has been toward the use by certain Latin American countries of prior-import-deposit systems and import surcharges as a means of restricting imports. The degree of restriction of any particular method formerly more extensively employed by these countries to control their import trade usually varied, depending on the type of commodity imported. Elimination or decreased use of those types of restrictions (licensing, quotas, multiple exchange rates) without the imposition of prior import deposits or import surcharges which similarly varied in their degree of restriction by commodity would have resulted in increased imports of less essential commodities at the expense of vital exchange reserves. It is important to note, therefore, that the degree of restriction of the now more prevalent types of import restrictions—import deposits and surcharges—continues to vary greatly, depending on the type of commodity imported. The principal significance of the recent changes lies in the simplification of import restrictions in general and in the elimination of many of their discriminatory features rather than in a decrease in their total restrictive effect.

## OTHER NONDOLLAR COUNTRIES

Certain other nondollar countries with which the United States has trade-agreement obligations are not members of OEEC, the sterling area, or the Latin American Free Trade Association, but, like many of the countries in those three groups, they need to conserve their foreign exchange. These countries, three of which are contracting parties to the General Agreement and members of the IMF, are Finland, Indonesia, Iran, and Japan.[27] Of these four countries, only Indonesia maintains

[27] Iran is a member of the IMF only.

a multiple-exchange-rate system. All of them, however, maintain import restrictions, some of which are discriminatory. During the period covered by this report the four countries mentioned above made significant progress in reducing those restrictions and their discriminatory aspects.

On January 1, 1960, Finland eliminated its discriminatory treatment of many commodities imported from France, Canada, and the United States by (1) extending to those countries—for many commodities—the same license-free import treatment that it already accorded imports from most Western European countries and (2) by permitting them to export to Finland under global quotas which had previously been open only to most Western European countries. Although Finland still discriminates in its licensing and quota arrangements, principally to enable it to fulfill its bilateral trade-agreement commitments, imports from the United States and Canada now generally receive the same treatment as imports from most Western European countries.[28]

Inadequate foreign-exchange reserves have been the principal reason for the continued restrictiveness of Indonesia's foreign-trade policy. During the period covered by this report all imports into and exports from Indonesia continued to be subject to licensing. Indonesia has concluded a number of bilateral trade agreements, and issuance of licenses for imports to fulfill commitments under those agreements results in effective discrimination against other countries. Major developments in Indonesia's trade policy during the period 1959–60 included the devaluation of the exchange value of the country's currency, the elimination of the requirement for prior import deposits for individual commodities,[29] and the modification—and for some transactions the increase—of the country's varying import exchange surcharges. Maintenance of such exchange surcharges results in multiple exchange rates on the import side.

Iran, which maintains a single exchange rate for all transactions, permits the importation of "authorized" commodities without restriction.[30] "Authorized" commodities include all commodities except those specifically prohibited and a few others that are subject to special regulations. Each year Iran establishes a global quota for the importation of "authorized" commodities, but the size of the quota is an indication of the total value of "authorized" commodities that Iran expects to import rather than a restriction on the level of imports of particular commodities. Any

[28] A new Finnish tariff, based on the Brussels Nomenclature, became effective on June 1, 1960.

[29] The requirement that all importers must maintain a deposit with the Ministry of Trade, before they are permitted to import any commodity, was retained.

[30] Although import licenses are prerequisite to the importation of authorized commodities, they are required only to effect the release of such commodities from customs; they are issued automatically upon submission of documents showing that payment for the imports has been or will be made through an authorized bank.

subsequent increase in the size of the established global quota is made, however, on the basis of the availability of foreign exchange. For the 12-month period March 22, 1959–March 21, 1960, the value of the global quota for "authorized" commodities was significantly higher than that established at the beginning of the previous period, but somewhat smaller than the actual value of imports during that period. Only minor changes were made in the list of "prohibited" commodities. Import regulations adopted for the 12-month period March 22, 1960–March 21, 1961, included some changes, the most important of which was the addition of a number of commodities to the prohibited list. The principal area of discrimination in Iran's import trade relates to commodities on the prohibited list, which may be imported only from countries with which Iran has bilateral agreements and only to the extent specified in those agreements.

Japan regulates the aggregate value of its imports by means of import-exchange budgets, which are announced twice each year. During the period covered by this report each of those budgets was successively larger than the previous one; that for the period April 1, 1960–September 30, 1960, was the largest in Japan's history. Licenses are required for all imports into Japan. Within the scope of the import budget, various licensing categories are established which differ in their restrictive or discriminatory effect. For imports of commodities listed in one particular licensing category, however, licenses are automatically issued. During the period covered by this report the number of commodities in that category was increased by more than 300, and the amount of exchange allocated to the category by each of the import budgets was successively greater. Licenses to import in excess of the amount of exchange initially allocated to the category are generally approved, so that in effect the commodities listed therein may be freely imported.

Importation of commodities into Japan under other licensing categories is generally subject to more restrictive regulations, some of which discriminate against imports from the United States and other countries. During the period covered by this report, however, Japan eliminated the discrimination against some imports from the dollar area. Much of the remaining discrimination results from Japan's extensive network of bilateral trade agreements, many of which provide for the importation of specified quantities of listed commodities from particular countries.

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