

GENERAL AGREEMENT ON TARIFFS AND TRADE

*Final act signed at Geneva October 30, 1947, at the conclusion of the second session of the Preparatory Committee of the United Nations Conference on Trade and Employment; General Agreement on Tariffs and Trade opened for acceptance at Geneva October 30, 1947; protocol of provisional application opened for signature at Geneva October 30, 1947, and signed for the United States October 30, 1947*¹

*Protocol of provisional application effective January 1, 1948
Agreements relating to the General Agreement, including, among others, rectifications, modifications, amendments, and protocols of accession, are dated March 24, 1948,² September 14, 1948,³ August 13, 1949,⁴ October 10, 1949,⁵ and later*⁶

61 Stat. (5) and (6); Treaties and Other
International Acts Series 1700

FINAL ACT

In accordance with the Resolution adopted at the First Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, established by the Economic and Social Council of the United Nations on February 18, 1946,

The Governments of the COMMONWEALTH OF AUSTRALIA, the KINGDOM OF BELGIUM, the UNITED STATES OF BRAZIL, BURMA, CANADA, CEYLON, the REPUBLIC OF CHILE, the REPUBLIC OF CHINA, the REPUBLIC OF CUBA, the CZECHOSLOVAK REPUBLIC, the FRENCH REPUBLIC, INDIA, LEBANON, the GRAND-DUCHY OF LUXEMBURG, the KINGDOM OF THE NETHERLANDS, NEW

¹ For schedules of tariff concessions annexed to the General Agreement, see 61 Stat. (5) A91 or p. 87 of TIAS 1700.

² TIAS 1761-1765, *post*, pp. 704-723.

³ TIAS 1887 and 1890, *post*, pp. 762, 769; 62 Stat. 3671, TIAS 1888; 3 UST 5355, TIAS 2744.

⁴ 2 UST 1583, 3 UST 57, 123, 5368, 5383; TIAS 2300, 2393, 2394, 2745, 2746.

⁵ TIAS 2100, *post*, p. 859.

⁶ For agreements dated after Jan. 1, 1950, see *United States Treaties and Other International Agreements, passim*.

ZEALAND, the KINGDOM OF NORWAY, PAKISTAN, SOUTHERN RHODESIA, SYRIA, the UNION OF SOUTH AFRICA, the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and the UNITED STATES OF AMERICA,

Initiated negotiations between their representatives, at Geneva on April 10, 1947, directed to the substantial reduction of tariffs and other trade barriers and to the elimination of preferences, on a reciprocal and mutually advantageous basis. These negotiations have terminated today and have resulted in the framing of a General Agreement on Tariffs and Trade and of a Protocol of Provisional Application, the texts of which are annexed hereto. These texts are hereby authenticated.

The signature of this Final Act, or of the Protocol of Provisional Application, by any of the above-mentioned Governments does not in any way prejudice their freedom of action at the United Nations Conference on Trade and Employment.

This Final Act, including the texts of the General Agreement on Tariffs and Trade and of the Protocol of Provisional Application, will be released by the Secretary-General of the United Nations for publication on November 18, 1947, provided that the Protocol of Provisional Application shall have been signed by November 15, 1947, on behalf of all the countries named therein.

In witness whereof the respective Representatives have signed the present Act.

Done at Geneva, in a single copy, in the English and French languages, both texts authentic, this thirtieth day of October, one thousand nine hundred and forty-seven.

For the Commonwealth of Australia:
C. E. MORTON

For the Kingdom of Belgium:
P. A. FORTHOMME

For the United States of Brazil:
A. DE FERREIRA BRAGA

For Burma:
MAUNG NYUN

For Canada:
L. D. WILGROSS

For Ceylon:
J. COREA

For the Republic of Chile:
A. FAIVOVICH

For the Republic of China:
WUNSZ KING

For the Republic of Cuba:
SERGIO I. CLARK

For the Czechoslovak Republic:
Z. AUGENTHALER

For the French Republic:
PIERRE BARADUC

For India:
S. RANGANATHAN

For Lebanon:
J. MIKAOUI

For the Grand-Duchy of Luxemburg:
J. STURM

For the Kingdom of the Netherlands:
A. B. SPEEKENBRINK

For New Zealand:
J. P. D. JONNSEN

For the Kingdom of Norway:
ERIK COLBAN

For Pakistan:
H. I. RAHIMTOOLA

For Southern Rhodesia:
K. M. GOODENOUGH

For Syria:
H. JABBARA

For the Union of South Africa:
W. G. W. PARMINTER

For the United Kingdom of Great
Britain and Northern Ireland:

T. M. SNOW

For the United States of America:
WINTHROP BROWN

GENERAL AGREEMENT ON TARIFFS AND TRADE

The Governments of the Commonwealth of Australia, the Kingdom of Belgium, the United States of Brazil, Burma, Canada, Ceylon, the Republic of Chile, the Republic of China, the Republic of Cuba, the Czechoslovak Republic, the French Republic, India, Lebanon, the Grand Duchy of Luxemburg, the Kingdom of the Netherlands, New Zealand, the Kingdom of Norway, Pakistan, Southern Rhodesia, Syria, the Union of South Africa, the United Kingdom of Great Britain and Northern Ireland, and the United States of America:

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

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

Have through their Representatives agreed as follows:

PART I

ARTICLE I⁷

General Most-Favoured-Nation Treatment

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 1 and 2 of Article III, any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.

⁷ See also interpretative notes, p. 682.

2. The provisions of paragraph 1 of this Article shall not require the elimination of any preferences in respect of import duties or charges which do not exceed the levels provided for in paragraph 3 of this Article and which fall within the following descriptions:

(a) preferences in force exclusively between two or more of the territories listed in Annex A, subject to the conditions set forth therein;

(b) preferences in force exclusively between two or more territories which on July 1, 1939, were connected by common sovereignty or relations of protection or suzerainty and which are listed in Annexes B, C, and D, subject to the conditions set forth therein;

(c) preferences in force exclusively between the United States of America and the Republic of Cuba;

(d) preferences in force exclusively between neighbouring countries listed in Annexes E and F.

3. The margin of preference on any product in respect of which a preference is permitted under paragraph 2 of this Article but is not specifically set forth as a maximum margin of preference in the appropriate Schedule⁸ annexed to this Agreement shall not exceed

(a) in respect of duties or charges on any product described in such Schedule, the difference between the most-favoured-nation and preferential rates provided for therein; if no preferential rate is provided for, the preferential rate shall for the purposes of this paragraph be taken to be that in force on April 10, 1947, and, if no most-favoured-nation rate is provided for, the margin shall not exceed the difference between the most-favoured-nation and preferential rates existing on April 10, 1947;

(b) in respect of duties or charges on any product not described in the appropriate Schedule, the difference between the most-favoured-nation and preferential rates existing on April 10, 1947.

In the case of the contracting parties named in Annex G, the date of April 10, 1947, referred to in subparagraphs (a) and (b) of this paragraph shall be replaced by the respective dates set forth in that Annex.

ARTICLE II⁹

Schedules of Concessions

1. (a) Each contracting party shall accord to the commerce of the other contracting parties treatment no less favourable than that provided for in the appropriate Part of the appropriate Schedule annexed to this Agreement.

(b) The products described in Part I of the Schedule relating to any contracting party, which are the products of territories of other contracting

⁸ For schedules of tariff concessions annexed to the General Agreement, see 61 Stat. (5) A91 or p. 87 of TIAS 1700.

⁹ See also interpretative notes, p. 682.

parties, shall, on their importation into the territory to which the Schedule relates, and subject to the terms, conditions or qualifications set forth in that Schedule, be exempt from ordinary customs duties in excess of those set forth and provided for therein. Such products shall also be exempt from all other duties or charges of any kind imposed on or in connection with importation in excess of those imposed on the date of this Agreement or those directly and mandatorily required to be imposed thereafter by legislation in force in the importing territory on that date.

(c) The products described in Part II of the Schedule relating to any contracting party, which are the products of territories entitled under Article I to receive preferential treatment upon importation into the territory to which the Schedule relates, shall, on their importation into such territory, and subject to the terms, conditions or qualifications set forth in that Schedule, be exempt from ordinary customs duties in excess of those set forth and provided for in Part II of that Schedule. Such products shall also be exempt from all other duties or charges of any kind imposed on or in connection with importation in excess of those imposed on the date of this Agreement or those directly and mandatorily required to be imposed thereafter by legislation in force in the importing territory on that date. Nothing in this Article shall prevent any contracting party from maintaining its requirements existing on the date of this Agreement as to the eligibility of goods for entry at preferential rates of duty.

2. Nothing in this Article shall prevent any contracting party from imposing at any time on the importation of any product

(a) a charge equivalent to an internal tax imposed consistently with the provisions of paragraph 1 of Article III in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;

(b) any anti-dumping or countervailing duty applied consistently with the provisions of Article VI;

(c) fees or other charges commensurate with the cost of services rendered.

3. No contracting party shall alter its method of determining dutiable value or of converting currencies so as to impair the value of any of the concessions provided for in the appropriate Schedule annexed to this Agreement.

4. If any contracting party establishes, maintains or authorizes, formally or in effect, a monopoly of the importation of any product described in the appropriate Schedule annexed to this Agreement, such monopoly shall not, except as provided for in that Schedule or as otherwise agreed between the parties which initially negotiated the concession, operate so as to afford protection on the average in excess of the amount of protection provided for in that Schedule. The provisions of this paragraph shall not limit the use by contracting parties of any form of assistance to domestic producers permitted by other provisions of this Agreement.

5. If any contracting party considers that a product is not receiving from another contracting party the treatment which the first contracting party believes to have been contemplated by a concession provided for in the appropriate Schedule annexed to this Agreement, it shall bring the matter directly to the attention of the other contracting party. If the latter agrees that the treatment contemplated was that claimed by the first contracting party, but declares that such treatment cannot be accorded because a court or other proper authority has ruled to the effect that the product involved cannot be classified under the tariff laws of such contracting party so as to permit the treatment contemplated in this Agreement, the two contracting parties, together with any other contracting parties substantially interested, shall enter promptly into further negotiations with a view to a compensatory adjustment of the matter.

6. (a) The specific duties and charges included in the Schedules relating to contracting parties members of the International Monetary Fund, and margins of preference in specific duties and charges maintained by such contracting parties, are expressed in the appropriate currency at the par value accepted or provisionally recognized by the Fund at the date of this Agreement. Accordingly, in case this par value is reduced consistently with the Articles of Agreement of the International Monetary Fund¹⁰ by more than twenty per centum, such specific duties and charges and margins of preference may be adjusted to take account of such reduction;

Provided that the CONTRACTING PARTIES (i.e. the contracting parties acting jointly as provided for in Article XXV) concur that such adjustments will not impair the value of the concessions provided for in the appropriate Schedule or elsewhere in this Agreement, due account being taken of all factors which may influence the need for, or urgency of, such adjustments.

(b) Similar provisions shall apply to any contracting party not a member of the Fund, as from the date on which such contracting party becomes a member of the Fund or enters into a special exchange agreement in pursuance of Article XV.

7. The Schedules annexed to this Agreement are hereby made an integral part of Part I of this Agreement.

PART II

ARTICLE III

National Treatment on Internal Taxation and Regulation

1. The products of the territory of any contracting party imported into the territory of any other contracting party shall be exempt from internal taxes and other internal charges of any kind in excess of those applied directly or

¹⁰ TIAS 1501, *ante*, vol. 3, p. 1351.

indirectly to like products of national origin. Moreover, in cases in which there is no substantial domestic production of like products of national origin, no contracting party shall apply new or increased internal taxes on the products of the territories of other contracting parties for the purpose of affording protection to the production of directly competitive or substitutable products which are not similarly taxed; and existing internal taxes of this kind shall be subject to negotiation for their reduction or elimination.

2. The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use. The provisions of this paragraph shall not prevent the application of differential transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

3. In applying the principles of paragraph 2 of this Article to internal quantitative regulations relating to the mixture, processing or use of products in specified amounts or proportions, the contracting parties shall observe the following provisions:

(a) no regulations shall be made which, formally or in effect, require that any specified amount or proportion of the product in respect of which such regulations are applied must be supplied from domestic sources;

(b) no contracting party shall, formally or in effect, restrict the mixing, processing or use of a product of which there is no substantial domestic production with a view to affording protection to the domestic production of a directly competitive or substitutable product.

4. The provisions of paragraph 3 of this Article shall not apply to:

(a) any measure of internal quantitative control in force in the territory of any contracting party on July 1, 1939 or April 10, 1947, at the option of that contracting party; *Provided* that any such measure which would be in conflict with the provisions of paragraph 3 of this Article shall not be modified to the detriment of imports and shall be subject to negotiation for its limitation, liberalization or elimination;

(b) any internal quantitative regulation relating to exposed cinematograph films and meeting the requirements of Article IV.

5. The provisions of this Article shall not apply to the procurement by governmental agencies of products purchased for governmental purposes and not for resale or use in the production of goods for sale, nor shall they prevent the payment to domestic producers only of subsidies provided for under Article XVI, including payments to domestic producers derived from the proceeds of internal taxes or charges and subsidies effected through governmental purchases of domestic products.

ARTICLE IV

Special Provisions relating to Cinematograph Films

If any contracting party establishes or maintains internal quantitative regulations relating to exposed cinematograph films, such regulations shall take the form of screen quotas which shall conform to the following requirements:

(a) screen quotas may require the exhibition of cinematograph films of national origin during a specified minimum proportion of the total screen time actually utilized, over a specified period of not less than one year, in the commercial exhibition of all firms of whatever origin, and shall be computed on the basis of screen time per theatre per year or the equivalent thereof;

(b) with the exception of screen time reserved for films of national origin under a screen quota, screen time including that released by administrative action from screen time reserved for films of national origin, shall not be allocated formally or in effect among sources of supply;

(c) notwithstanding the provisions of sub-paragraph (b) of this Article, any contracting party may maintain screen quotas conforming to the requirements of sub-paragraph (a) of this Article which reserve a minimum proportion of screen time for films of a specified origin other than that of the contracting party imposing such screen quotas; *Provided* that no such minimum proportion of screen time shall be increased above the level in effect on April 10, 1947;

(d) screen quotas shall be subject to negotiation for their limitation, liberalization or elimination.

ARTICLE V¹¹*Freedom of Transit*

1. Goods (including baggage), and also vessels and other means of transport, shall be deemed to be in transit across the territory of a contracting party when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of the contracting party across whose territory the traffic passes. Traffic of this nature is termed in this Article "traffic in transit".

2. There shall be freedom of transit through the territory of each contracting party, via the routes most convenient for international transit, for traffic in transit to or from the territory of other contracting parties. No distinction shall be made which is based on the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, of vessels or of other means of transport.

¹¹ See also interpretative notes, p. 683.

3. Any contracting party may require that traffic in transit through its territory be entered at the proper custom house, but, except in cases of failure to comply with applicable customs laws and regulations, such traffic coming from or going to the territory of other contracting parties shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties and from all transit duties or other charges imposed in respect of transit, except charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.

4. All charges and regulations imposed by contracting parties on traffic in transit to or from the territories of other contracting parties shall be reasonable, having regard to the conditions of the traffic.

5. With respect to all charges, regulations and formalities in connection with transit, each contracting party shall accord to traffic in transit to or from the territory of any other contracting party treatment no less favourable than the treatment accorded to traffic in transit to or from any third country.

6. Each contracting party shall accord to products which have been in transit through the territory of any other contracting party treatment no less favourable than that which would have been accorded to such products had they been transported from their place of origin to their destination without going through the territory of such other contracting party. Any contracting party shall, however, be free to maintain its requirements of direct consignment existing on the date of this Agreement, in respect of any goods in regard to which such direct consignment is a requisite condition of eligibility for entry of the goods at preferential rates of duty or has relation to the contracting party's prescribed method of valuation for duty purposes.

7. The provisions of this Article shall not apply to the operation of aircraft in transit, but shall apply to air transit of goods (including baggage).

ARTICLE VI ¹¹

Anti-Dumping and Countervailing Duties

1. No anti-dumping duty shall be levied on any product of the territory of any contracting party imported into the territory of any other contracting party in excess of an amount equal to the margin of dumping under which such product is being imported. For the purposes of this Article, the margin of dumping shall be understood to mean the amount by which the price of the product exported from one country to another

(a) is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country; or,

(b) in the absence of such domestic price, is less than either

(i) the highest comparable price for the like product for export to any third country in the ordinary course of trade, or

(ii) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

Due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

2. No countervailing duty shall be levied on any product of the territory of any contracting party imported into the territory of another contracting party in excess of an amount equal to the estimated bounty or subsidy determined to have been granted, directly or indirectly, on the manufacture, production or export of such product in the country of origin or exportation, including any special subsidy to the transportation of a particular product. The term "countervailing duty" shall be understood to mean a special duty levied for the purpose of offsetting any bounty or subsidy bestowed, directly or indirectly, upon the manufacture, production or exportation of any merchandise.

3. No product of the territory of any contracting party imported into the territory of any other contracting party shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from duties or taxes borne by the like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such duties or taxes.

4. No product of the territory of any contracting party imported into the territory of any other contracting party shall be subject to both anti-dumping and countervailing duties to compensate for the same situation of dumping or export subsidization.

5. No contracting party shall levy any anti-dumping or countervailing duty on the importation of any product of the territory of another contracting party unless it determines that the effect of the dumping or subsidization, as the case may be, is such as to cause or threaten material injury to an established domestic industry, or is such as to prevent or materially retard the establishment of a domestic industry. The CONTRACTING PARTIES may waive the requirements of this paragraph so as to permit a contracting party to levy an anti-dumping or countervailing duty on the importation of any product for the purpose of offsetting dumping or subsidization which causes or threatens material injury to an industry in the territory of another contracting party exporting the product concerned to the territory of the importing contracting party.

6. A system for the stabilization of the domestic price or of the return to domestic producers of a primary commodity, independently of the movements of export prices, which results at times in the sale of the product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, shall be considered not to result in material injury within the meaning of paragraph 5 of this Article, if it is

determined by consultation among the contracting parties substantially interested in the product concerned:

(a) that the system has also resulted in the sale of the product for export at a price higher than the comparable price charged for the like product to buyers in the domestic market, and

(b) that the system is so operated, either because of the effective regulation of production or otherwise, as not to stimulate exports unduly or otherwise seriously prejudice the interests of other contracting parties.

7. No measures other than anti-dumping or countervailing duties shall be applied by any contracting party in respect of any product of the territory of any other contracting party for the purpose of offsetting dumping or subsidization.

ARTICLE VII¹²

Valuation for Customs Purposes

1. The contracting parties recognize the validity of the general principles of valuation set forth in the following paragraphs of this Article, and they undertake to give effect to such principles, in respect of all products subject to duties or other charges or restrictions on importation and exportation based upon or regulated in any manner by value, at the earliest practicable date. Moreover, they shall, upon a request by another contracting party, review the operation of any of their laws or regulations relating to value for customs purposes in the light of these principles. The CONTRACTING PARTIES may request from contracting parties reports on steps taken by them in pursuance of the provisions of this Article.

2. (a) The value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, or of like merchandise, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values.

(b) "Actual value" should be the price at which, at a time and place determined by the legislation of the country of importation, and in the ordinary course of trade, such or like merchandise is sold or offered for sale under fully competitive conditions. To the extent to which the price of such or like merchandise is governed by the quantity in a particular transaction, the price to be considered should uniformly be related to either (i) comparable quantities, or (ii) quantities not less favourable to importers than those in which the greater volume of the merchandise is sold in the trade between the countries of exportation and importation.

(c) When the actual value is not ascertainable in accordance with sub-paragraph (b) of this paragraph, the value for customs purposes should be based on the nearest ascertainable equivalent of such value.

¹² See also interpretative notes, p. 683.

3. The value for customs purposes of any imported product should not include the amount of any internal tax, applicable within the country of origin or export, from which the imported product has been exempted or has been or will be relieved by means of refund.

4. (a) Except as otherwise provided for in this paragraph, where it is necessary for the purposes of paragraph 2 of this Article for a contracting party to convert into its own currency a price expressed in the currency of another country, the conversion rate of exchange to be used shall be based on the par values of the currencies involved as established pursuant to the Articles of Agreement of the International Monetary Fund or by special exchange agreements entered into pursuant to Article XV of this Agreement.

(b) Where no such par value has been established, the conversion rate shall reflect effectively the current value of such currency in commercial transactions.

(c) The CONTRACTING PARTIES, in agreement with the International Monetary Fund, shall formulate rules governing the conversion by contracting parties of any foreign currency in respect of which multiple rates of exchange are maintained consistently with the Articles of Agreement of the International Monetary Fund. Any contracting party may apply such rules in respect of such foreign currencies for the purposes of paragraph 2 of this Article as an alternative to the use of par values. Until such rules are adopted by the CONTRACTING PARTIES, any contracting party may employ, in respect of any such foreign currency, rules of conversion for the purposes of paragraph 2 of this Article which are designed to reflect effectively the value of such foreign currency in commercial transactions.

(d) Nothing in this paragraph shall be construed to require any contracting party to alter the method of converting currencies for customs purposes which is applicable in its territory on the date of this Agreement, if such alteration would have the effect of increasing generally the amounts of duty payable.

5. The bases and methods for determining the value of products subject to duties or other charges or restrictions based upon or regulated in any manner by value should be stable and should be given sufficient publicity to enable traders to estimate, with a reasonable degree of certainty, the value for customs purposes.

ARTICLE VIII¹³

Formalities connected with Importation and Exportation

1. The contracting parties recognise that fees and charges, other than duties, imposed by governmental authorities on or in connection with importation or exportation, should be limited in amount to the approximate cost of services rendered and should not represent an indirect protection to

¹³ See also interpretative notes, p. 684.

domestic products or a taxation of imports or exports for fiscal purposes. The contracting parties also recognize the need for reducing the number and diversity of such fees and charges, for minimizing the incidence and complexity of import and export formalities, and for decreasing and simplifying import and export documentation requirements.

2. The contracting parties shall take action in accordance with the principles and objectives of paragraph 1 of this Article at the earliest practicable date. Moreover, they shall, upon request by another contracting party, review the operation of any of their laws and regulations in the light of these principles.

3. No contracting party shall impose substantial penalties for minor breaches of customs regulations or procedural requirements. In particular, no penalty in respect of any omission or mistake in customs documentation which is easily rectifiable and obviously made without fraudulent intent or gross negligence shall be greater than necessary to serve merely as a warning.

4. The provisions of this Article shall extend to fees, charges, formalities and requirements imposed by governmental authorities in connection with importation and exportation, including those relating to:

- (a) consular transactions, such as consular invoices and certificates;
- (b) quantitative restrictions;
- (c) licensing;
- (d) exchange control;
- (e) statistical services;
- (f) documents, documentation and certification;
- (g) analysis and inspection; and
- (h) quarantine, sanitation and fumigation.

ARTICLE IX

Marks of Origin

1. Each contracting party shall accord to the products of the territories of other contracting parties treatment with regard to marking requirements no less favourable than the treatment accorded to like products of any third country.

2. Whenever it is administratively practicable to do so, contracting parties should permit required marks of origin to be affixed at the time of importation.

3. The laws and regulations of contracting parties relating to the marking of imported products shall be such as to permit compliance without seriously damaging the products, or materially reducing their value, or unreasonably increasing their cost.

4. As a general rule no special duty or penalty should be imposed by any contracting party for failure to comply with marking requirements prior to importation unless corrective marking is unreasonably delayed or deceptive

marks have been affixed or the required marking has been intentionally omitted.

5. The contracting parties shall co-operate with each other with a view to preventing the use of trade names in such manner as to misrepresent the true origin of a product, to the detriment of such distinctive regional or geographical names of products of the territory of a contracting party as are protected by its legislation. Each contracting party shall accord full and sympathetic consideration to such requests or representations as may be made by any other contracting party regarding the application of the undertaking set forth in the preceding sentence to names of products which have been communicated to it by the other contracting party.

ARTICLE X

Publication and Administration of Trade Regulations

1. Laws, regulations, judicial decisions and administrative rulings of general application, made effective by any contracting party, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing or other use, shall be published promptly in such a manner as to enable governments and traders to become acquainted with them. Agreements affecting international trade policy which are in force between the government or a governmental agency of any contracting party and the government or governmental agency of any other contracting party shall also be published. The provisions of this paragraph shall not require any contracting party to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

2. No measure of general application taken by any contracting party effecting an advance in a rate of duty or other charge on imports under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports, or on the transfer of payments therefor, shall be enforced before such measure has been officially published.

3. (a) Each contracting party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1 of this Article.

(b) Each contracting party shall maintain, or institute as soon as practicable, judicial, arbitral or administrative tribunals or procedures for the purpose, *inter alia*, of the prompt review and correction of administrative action relating to customs matters. Such tribunals or procedures shall be

independent of the agencies entrusted with administrative enforcement and their decisions shall be implemented by, and shall govern the practice of, such agencies unless an appeal is lodged with a court or tribunal of superior jurisdiction within the time prescribed for appeals to be lodged by importers; *Provided* that the central administration of such agency may take steps to obtain a review of the matter in another proceeding if there is good cause to believe that the decision is inconsistent with established principles of law or the actual facts.

(c) The provisions of sub-paragraph (b) of this paragraph shall not require the elimination or substitution of procedures in force in the territory of a contracting party on the date of this Agreement which in fact provide for an objective and impartial review of administrative action even though such procedures are not fully or formally independent of the agencies entrusted with administrative enforcement. Any contracting party employing such procedures shall, upon request, furnish the CONTRACTING PARTIES with full information thereon in order that they may determine whether such procedures conform to the requirements of this sub-paragraph.

ARTICLE XI¹⁴

General Elimination of Quantitative Restrictions

1. No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.

2. The provisions of paragraph 1 of this Article shall not extend to the following:

(a) export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party;

(b) import and export prohibitions or restrictions necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade;

(c) import restrictions on any agricultural or fisheries product, imported in any form, necessary to the enforcement of governmental measures which operate:

(i) to restrict the quantities of the like domestic product permitted to be marketed or produced, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted; or

¹⁴ See also interpretative notes, p. 684.

(ii) to remove a temporary surplus of the like domestic product, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted, by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level; or

(iii) to restrict the quantities permitted to be produced of any animal product the production of which is directly dependent, wholly or mainly, on the imported commodity, if the domestic production of that commodity is relatively negligible.

Any contracting party applying restrictions on the importation of any product pursuant to sub-paragraph (c) of this paragraph shall give public notice of the total quantity or value of the product permitted to be imported during a specified future period and of any change in such quantity or value. Moreover, any restrictions applied under (i) above shall not be such as will reduce the total of imports relative to the total of domestic production, as compared with the proportion which might reasonably be expected to rule between the two in the absence of restrictions. In determining this proportion, the contracting party shall pay due regard to the proportion prevailing during a previous representative period and to any special factors which may have affected or may be affecting the trade in the product concerned.

3. Throughout Articles XI, XII, XIII and XIV the terms "import restrictions" or "export restrictions" include restrictions made effective through state-trading operations.

ARTICLE XII¹⁴

Restrictions to Safeguard the Balance of Payments

1. Notwithstanding the provisions of paragraph 1 of Article XI, any contracting party, in order to safeguard its external financial position and balance of payments, may restrict the quantity or value of merchandise permitted to be imported, subject to the provisions of the following paragraphs of this Article.

2. (a) No contracting party shall institute, maintain or intensify import restrictions under this Article except to the extent necessary

(i) to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or

(ii) in the case of a contracting party with very low monetary reserves, to achieve a reasonable rate of increase in its reserves.

Due regard shall be paid in either case to any special factors which may be affecting the contracting party's reserves or need for reserves, including, where special external credits or other resources are available to it, the need to provide for the appropriate use of such credits or resources.

(b) Contracting parties applying restrictions under sub-paragraph (a) of this paragraph shall progressively relax them as such conditions improve, maintaining them only to the extent that the conditions specified in that sub-paragraph still justify their application. They shall eliminate the restrictions when conditions would no longer justify their institution or maintenance under that sub-paragraph.

3. (a) The contracting parties recognize that during the next few years all of them will be confronted in varying degrees with problems of economic adjustment resulting from the war. During this period the CONTRACTING PARTIES shall, when required to take decisions under this Article or under Article XIV, take full account of the difficulties of post-war adjustment and of the need which a contracting party may have to use import restrictions as a step towards the restoration of equilibrium in its balance of payments on a sound and lasting basis.

(b) The contracting parties recognize that, as a result of domestic policies directed toward the achievement and maintenance of full and productive employment and large and steadily growing demand or toward the reconstruction or development of industrial and other economic resources and the raising of standards of productivity, such a contracting party may experience a high level of demand for imports. Accordingly,

(i) notwithstanding the provisions of paragraph 2 of this Article, no contracting party shall be required to withdraw or modify restrictions on the ground that a change in the policies referred to above would render unnecessary the restrictions which it is applying under this Article;

(ii) any contracting party applying import restrictions under this Article may determine the incidence of the restrictions on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential in the light of such policies.

(c) Contracting parties undertake, in carrying out their domestic policies:

(i) to pay due regard to the need for restoring equilibrium in their balance of payments on a sound and lasting basis and to the desirability of assuring an economic employment of productive resources;

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

(iii) to apply restrictions under this Article in such a way as to avoid unnecessary damage to the commercial or economic interests of any other contracting party.

4. (a) Any contracting party which is not applying restrictions under this Article, but is considering the need to do so, shall, before instituting such restrictions (or, in circumstances in which prior consultation is impracticable, immediately after doing so), consult with the CONTRACTING PARTIES as to the nature of its balance-of-payments difficulties, alternative corrective measures which may be available, and the possible effect of such measures on the economies of other contracting parties. No contracting party shall be required in the course of consultations under this sub-paragraph to indicate in advance the choice or timing of any particular measures which it may ultimately determine to adopt.

(b) The CONTRACTING PARTIES may at any time invite any contracting party which is applying import restrictions under this Article to enter into such consultations with them, and shall invite any contracting party substantially intensifying such restrictions to consult within thirty days. A contracting party thus invited shall participate in such discussions. The CONTRACTING PARTIES may invite any other contracting party to take part in these discussions. Not later than January 1, 1951, the CONTRACTING PARTIES shall review all restrictions existing on that day and still applied under this Article at the time of the review.

(c) Any contracting party may consult with the CONTRACTING PARTIES with a view to obtaining their prior approval for restrictions which the contracting party proposes, under this Article, to maintain, intensify or institute, or for the maintenance, intensification or institution of restrictions under specified future conditions. As a result of such consultations, the CONTRACTING PARTIES may approve in advance the maintenance, intensification or institution of restrictions by the contracting party in question insofar as the general extent, degree of intensity and duration of the restrictions are concerned. To the extent to which such approval has been given, the requirements of sub-paragraph (a) of this paragraph shall be deemed to have been fulfilled, and the action of the contracting party applying the restrictions shall not be open to challenge under sub-paragraph (d) of this paragraph on the ground that such action is inconsistent with the provisions of paragraph 2 of this Article.

(d) Any contracting party which considers that another contracting party is applying restrictions under this Article inconsistently with the provisions of paragraphs 2 or 3 of this Article or with those of Article XIII (subject to the provisions of Article XIV) may bring the matter for discussion to the CONTRACTING PARTIES; and the contracting party applying the restrictions shall participate in the discussion. The CONTRACTING PARTIES, if they are satisfied that there is a *prima facie* case that the trade of the contracting party initiating the procedure is adversely affected, shall submit their views to the parties with the aim of achieving a settlement of the matter in question which is satisfactory to the parties and to the CONTRACTING PARTIES.

If no such settlement is reached and if the CONTRACTING PARTIES determine that the restrictions are being applied inconsistently with the provisions of paragraphs 2 or 3 of this Article or with those of Article XIII (subject to the provisions of Article XIV), they shall recommend the withdrawal or modification of the restrictions. If the restrictions are not withdrawn or modified in accordance with the recommendation of the CONTRACTING PARTIES within sixty days, they may release any contracting party from specified obligations under this Agreement towards the contracting party applying the restrictions.

(e) It is recognized that premature disclosure of the prospective application, withdrawal or modification of any restriction under this Article might stimulate speculative trade and financial movements which would tend to defeat the purposes of this Article. Accordingly, the CONTRACTING PARTIES shall make provision for the observance of the utmost secrecy in the conduct of any consultation.

5. If there is a persistent and widespread application of import restrictions under this Article, indicating the existence of a general disequilibrium which is restricting international trade, the CONTRACTING PARTIES shall initiate discussions to consider whether other measures might be taken, either by those contracting parties whose balances of payments are under pressure or by those whose balances of payments are tending to be exceptionally favourable, or by any appropriate inter-governmental organization, to remove the underlying causes of the disequilibrium. On the invitation of the CONTRACTING PARTIES, contracting parties shall participate in such discussions.

ARTICLE XIII¹⁵

Non-discriminatory Administration of Quantitative Restrictions

1. No prohibition or restriction shall be applied by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation of any product destined for the territory of any other contracting party, unless the importation of the like product of all third countries or the exportation of the like product to all third countries is similarly prohibited or restricted.

2. In applying import restrictions to any product, contracting parties shall aim at a distribution of trade in such product approaching as closely as possible to the shares which the various contracting parties might be expected to obtain in the absence of such restrictions, and to this end shall observe the following provisions:

(a) wherever practicable, quotas representing the total amount of permitted imports (whether allocated among supplying countries or not) shall be fixed, and notice given of their amount in accordance with paragraph 3(b) of this Article;

¹⁵ See also interpretative notes, p. 685.

(b) in cases in which quotas are not practicable, the restrictions may be applied by means of import licenses or permits without a quota;

(c) contracting parties shall not, except for purposes of operating quotas allocated in accordance with sub-paragraph (d) of this paragraph, require that import licenses or permits be utilized for the importation of the product concerned from a particular country or source;

(d) in cases in which a quota is allocated among supplying countries, the contracting party applying the restrictions may seek agreement with respect to the allocation of shares in the quota with all other contracting parties having a substantial interest in supplying the product concerned. In cases in which this method is not reasonably practicable, the contracting party concerned shall allot to contracting parties having a substantial interest in supplying the product shares based upon the proportions, supplied by such contracting parties during a previous representative period, of the total quantity or value of imports of the product, due account being taken of any special factors which may have affected or may be affecting the trade in the product. No conditions or formalities shall be imposed which would prevent any contracting party from utilizing fully the share of any such total quantity or value which has been allotted to it, subject to importation being made within any prescribed period to which the quota may relate.

3. (a) In cases in which import licences are issued in connection with import restrictions, the contracting party applying the restrictions shall provide, upon the request of any contracting party having an interest in the trade in the product concerned, all relevant information concerning the administration of the restrictions, the import licences granted over a recent period and the distribution of such licences among supplying countries; *Provided* that there shall be no obligation to supply information as to the names of importing or supplying enterprises.

(b) In the case of import restrictions involving the fixing of quotas, the contracting party applying the restrictions shall give public notice of the total quantity or value of the product or products which will be permitted to be imported during a specified future period and of any change in such quantity or value. Any supplies of the product in question which were en route at the time at which public notice was given shall not be excluded from entry; *Provided* that they may be counted so far as practicable, against the quantity permitted to be imported in the period in question, and also, where necessary, against the quantities permitted to be imported in the next following period or periods; and *Provided* further that if any contracting party customarily exempts from such restrictions products entered for consumption or withdrawn from warehouse for consumption during a period of thirty days after the day of such public notice, such practice shall be considered full compliance with this sub-paragraph.

(c) In the case of quotas allocated among supplying countries, the contracting party applying the restrictions shall promptly inform all other

contracting parties having an interest in supplying the product concerned of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and shall give public notice thereof.

4. With regard to restrictions applied in accordance with paragraph 2(d) of this Article or under paragraph 2(c) of Article XI, the selection of a representative period for any product and the appraisal of any special factors affecting the trade in the product shall be made initially by the contracting party applying the restriction; *Provided* that such contracting party shall upon the request of any other contracting party having a substantial interest in supplying that product or upon the request of the CONTRACTING PARTIES, consult promptly with the other contracting party or the CONTRACTING PARTIES regarding the need for an adjustment of the proportion determined or of the base period selected, or for the reappraisal of the special factors involved, or for the elimination of conditions, formalities or other provisions established unilaterally relating to the allocation of an adequate quota or its unrestricted utilization.

5. The provisions of this Article shall apply to any tariff quota instituted or maintained by any contracting party, and, insofar as applicable, the principles of this Article shall also extend to export restrictions and to any internal regulation or requirement under paragraphs 3 and 4 of Article III.

ARTICLE XIV¹⁶

Exceptions to the Rule of Non-discrimination

1. (a) The contracting parties recognize that when a substantial and widespread disequilibrium prevails in international trade and payments a contracting party applying restrictions under Article XII may be able to increase its imports from certain sources without unduly depleting its monetary reserves, if permitted to depart from the provisions of Article XIII. The contracting parties also recognise the need for close limitation of such departures so as not to handicap achievement of multilateral international trade.

(b) Accordingly, when a substantial and widespread disequilibrium prevails in international trade and payments, a contracting party applying import restrictions under Article XII may relax such restrictions in a manner which departs from the provisions of Article XIII to the extent necessary to obtain additional imports above the maximum total of imports which it could afford in the light of the requirements of paragraph 2 of Article XII if its restrictions were fully consistent with the provisions of Article XIII, provided that

(i) levels of delivered prices for products so imported are not established substantially higher than those ruling for comparable goods regularly available from other contracting parties, and that any excess of such

¹⁶ See also interpretative notes, p. 685.

price levels for products so imported is progressively reduced over a reasonable period;

(ii) the contracting party taking such action does not do so as part of any arrangement by which the gold or convertible currency which the contracting party currently receives directly or indirectly from its exports to other contracting parties not party to the arrangement is appreciably reduced below the level it could otherwise have been reasonably expected to attain;

(iii) such action does not cause unnecessary damage to the commercial or economic interests of any other contracting party.

(c) Any contracting party taking action under this paragraph shall observe the principles of sub-paragraph (b) of this paragraph. A contracting party shall desist from transactions which prove to be inconsistent with that sub-paragraph, but the contracting party shall not be required to satisfy itself, when it is not practicable to do so, that the requirements of that sub-paragraph are fulfilled in respect of individual transactions.

(d) Contracting parties undertake, in framing and carrying out any programme for additional imports under this paragraph, to have due regard to the need to facilitate the termination of any exchange arrangements which deviate from the obligations of Sections 2, 3 and 4 of Article VIII of the Articles of Agreement of the International Monetary Fund and to the need to restore equilibrium in their balances of payments on a sound and lasting basis.

2. Any contracting party taking action under paragraph 1 of this Article shall keep the CONTRACTING PARTIES regularly informed regarding such action and shall provide such available relevant information as they may request.

3. (a) Not later than March 1, 1952 (five years after the date on which the International Monetary Fund began operations) and in each year thereafter, any contracting party maintaining or proposing to institute action under paragraph 1 of this Article shall seek the approval of the CONTRACTING PARTIES which shall thereupon determine whether the circumstances of the contracting party justify the maintenance or institution of action by it under paragraph 1 of this Article. After March 1, 1952, no contracting party shall maintain or institute such action without determination by the CONTRACTING PARTIES that the contracting party's circumstances justify the maintenance or institution of such action, as the case may be, and the subsequent maintenance or institution of such action by the contracting party shall be subject to any limitations which the CONTRACTING PARTIES may prescribe for the purpose of ensuring compliance with the provisions of paragraph 1 of this Article; *Provided* that the CONTRACTING PARTIES shall not require that prior approval be obtained for individual transactions.

(b) If at any time the CONTRACTING PARTIES find that import restrictions are being applied by a contracting party in a discriminatory man-

ner inconsistent with the exceptions provided for under paragraph 1 of this Article, the contracting party shall, within sixty days, remove the discrimination or modify it as specified by the CONTRACTING PARTIES; *Provided* that any action under paragraph 1 of this Article, to the extent that it has been approved by the CONTRACTING PARTIES under sub-paragraph (a) of this paragraph or to the extent that it has been approved by them at the request of a contracting party under a procedure analogous to that of paragraph 4(c) of Article XII, shall not be open to challenge under this sub-paragraph or under paragraph 4(d) of Article XII on the ground that it is inconsistent with the provisions of Article XIII.

(c) Not later than March 1, 1950, and in each year thereafter so long as any contracting parties are taking action under paragraph 1 of this Article, the CONTRACTING PARTIES shall report on the action still taken by contracting parties under that paragraph. On or about March 1, 1952, and in each year thereafter so long as any contracting parties are taking action under paragraph 1 of this Article, and at such times thereafter as they may decide, the CONTRACTING PARTIES shall review the question whether there then exists such a substantial and widespread disequilibrium in international trade and payments as to justify resort to paragraph 1 of this Article by contracting parties. If it appears at any date prior to March 1, 1952, that there has been a substantial and general improvement in international trade and payments, the CONTRACTING PARTIES may review the situation at that date. If, as a result of any such review, the CONTRACTING PARTIES determine that no such disequilibrium exists, the provisions of paragraph 1 of this Article shall be suspended, and all actions authorized thereunder shall cease six months after such determination.

4. The provisions of Article XIII shall not preclude restrictions in accordance with Article XII which either

(a) are applied against imports from other countries, but not as among themselves, by a group of territories having a common quota in the International Monetary Fund, on condition that such restrictions are in all other respects consistent with the provisions of Article XIII, or

(b) assist, in the period up to December 31, 1951, by measures not involving substantial departure from the provisions of Article XIII, another country whose economy has been disrupted by war.

5. The provisions of this Agreement shall not preclude:

(a) restrictions with equivalent effect to exchange restrictions authorized under Section 3 (b) of Article VII of the Articles of Agreement of the International Monetary Fund; or

(b) restrictions under the preferential arrangements provided for in Annex A of this Agreement, subject to the conditions set forth therein.

6. (a) The provisions of Article XIII shall not enter into force in respect of import restrictions applied by any contracting party pursuant to Article

XII in order to safeguard its external financial position and balance of payments, and the provisions of paragraph 1 of Article XI and Article XIII shall not enter into force in respect of export restrictions applied by any contracting party for the same reason, until January 1, 1949; *Provided* that this period may with the concurrence of the CONTRACTING PARTIES, be extended for such further periods as they may specify in respect of any contracting party whose supply of convertible currencies is inadequate to enable it to apply the above-mentioned provisions.

(b) If a measure taken by a contracting party in the circumstances referred to in sub-paragraph (a) of this paragraph affects the commerce of another contracting party to such an extent as to cause the latter to consider the need of having recourse to the provisions of Article XII, the contracting party having taken that measure shall, if the affected contracting party so requests, enter into immediate consultation with a view to arrangements enabling the affected contracting party to avoid having such recourse, and, if special circumstances are put forward to justify such action, shall temporarily suspend application of the measure for a period of fifteen days.

ARTICLE XV¹⁷

Exchange Arrangements

1. The CONTRACTING PARTIES shall seek co-operation with the International Monetary Fund to the end that the CONTRACTING PARTIES and the Fund may pursue a co-ordinated policy with regard to exchange questions within the jurisdiction of the Fund and questions of quantitative restrictions and other trade measures within the jurisdiction of the CONTRACTING PARTIES.

2. In all cases in which the CONTRACTING PARTIES are called upon to consider or deal with problems concerning monetary reserves, balances of payments or foreign exchange arrangements, they shall consult fully with the International Monetary Fund. In such consultation, the CONTRACTING PARTIES shall accept all findings of statistical and other facts presented by the Fund relating to foreign exchange, monetary reserves and balances of payments, and shall accept the determination of the Fund as to whether action by a contracting party in exchange matters is in accordance with the Articles of Agreement of the International Monetary Fund, or with the terms of a special exchange agreement between that contracting party and the CONTRACTING PARTIES. The CONTRACTING PARTIES, in reaching their final decision in cases involving the criteria set forth in paragraph 2 (a) of Article XII, shall accept the determination of the Fund as to what constitutes a serious decline in the contracting party's monetary reserves, a very low level of its monetary reserves or a reasonable rate of increase in its monetary re-

¹⁷ See also interpretative notes, p. 685.

serves, and as to the financial aspects of other matters covered in consultation in such cases.

3. The CONTRACTING PARTIES shall seek agreement with the Fund regarding procedures for consultation under paragraph 2 of this Article.

4. Contracting parties shall not, by exchange action, frustrate the intent of the provisions of this Agreement, nor, by trade action, the intent of the provisions of the Articles of Agreement of the International Monetary Fund.

5. If the CONTRACTING PARTIES consider, at any time, that exchange restrictions on payments and transfers in connection with imports are being applied by a contracting party in a manner inconsistent with the exceptions provided for in this Agreement for quantitative restrictions, they shall report thereon to the Fund.

6. Any contracting party which is not a member of the Fund shall, within a time to be determined by the CONTRACTING PARTIES after consultation with the Fund, become a member of the Fund, or, failing that, enter into a special exchange agreement with the CONTRACTING PARTIES. A contracting party which ceases to be a member of the Fund shall forthwith enter into a special exchange agreement with the CONTRACTING PARTIES. Any special exchange agreement entered into by a contracting party under this paragraph shall thereupon become part of its obligations under this Agreement.

7. (a) A special exchange agreement between a contracting party and the CONTRACTING PARTIES under paragraph 6 of this Article shall provide to the satisfaction of the CONTRACTING PARTIES that the objectives of this Agreement will not be frustrated as a result of action in exchange matters by the contracting party in question.

(b) The terms of any such agreement shall not impose obligations on the contracting party in exchange matters generally more restrictive than those imposed by the Articles of Agreement of the International Monetary Fund on members of the Fund.

8. A contracting party which is not a member of the Fund shall furnish such information within the general scope of Section 5 of Article VIII of the Articles of Agreement of the International Monetary Fund as the CONTRACTING PARTIES may require in order to carry out their functions under this Agreement.

9. Subject to the provisions of paragraph 4 of this Article, nothing in this Agreement shall preclude:

(a) the use by a contracting party of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund or with that contracting party's special exchange agreement with the CONTRACTING PARTIES, or

(b) the use by a contracting party of restrictions or controls on imports or exports, the sole effect of which, additional to the effects permitted under Articles XI, XII, XIII and XIV, is to make effective such exchange controls or exchange restrictions.

ARTICLE XVI

Subsidies

If any contracting party grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into, its territory, it shall notify the CONTRACTING PARTIES in writing of the extent and nature of the subsidization, of the estimated effect of the subsidization on the quantity of the affected product or products imported into or exported from its territory and of the circumstances making the subsidization necessary. In any case in which it is determined that serious prejudice to the interests of any other contracting party is caused or threatened by any such subsidization, the contracting party granting the subsidy shall, upon request, discuss with the other contracting party or parties concerned, or with the CONTRACTING PARTIES, the possibility of limiting the subsidization.

ARTICLE XVII¹⁸*Non-discriminatory Treatment on the part of State-Trading Enterprises*

1. (a) Each contracting party undertakes that if it establishes or maintains a state enterprise, wherever located, or grants to any enterprise, formally or in effect, exclusive or special privileges, such enterprise shall, in its purchases or sales involving either imports or exports, act in a manner consistent with the general principles of non-discriminatory treatment prescribed in this Agreement for governmental measures affecting imports or exports by private traders.

(b) The provisions of sub-paragraph (a) of this paragraph shall be understood to require that such enterprises shall, having due regard to the other provisions of this Agreement, make any such purchases or sales solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale, and shall afford the enterprises of the other contracting parties adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases or sales.

(c) No contracting party shall prevent any enterprise (whether or not an enterprise described in sub-paragraph (a) of this paragraph) under its jurisdiction from acting in accordance with the principles of sub-paragraphs (a) and (b) of this paragraph.

2. The provisions of paragraph 1 of this Article shall not apply to imports of products for immediate or ultimate consumption in governmental use and not otherwise for re-sale or for use in the production of goods for sale.

¹⁸ See also interpretative notes, p. 686.

With respect to such imports, each contracting party shall accord to the trade of the other contracting parties fair and equitable treatment.

ARTICLE XVIII

Adjustments in Connection with Economic Development

1. The contracting parties recognize that special governmental assistance may be required to promote the establishment, development or reconstruction of particular industries or particular branches of agriculture, and that in appropriate circumstances the grant of such assistance in the form of protective measures is justified. At the same time they recognize that an unwise use of such measures would impose undue burdens on their own economies and unwarranted restrictions on international trade, and might increase unnecessarily the difficulties of adjustment for the economies of other countries.

2. (a) If a contracting party, in the interest of its programme of economic development or reconstruction, considers it desirable to adopt any non-discriminatory measure which would conflict with any obligation which it has assumed under Article II, or with any other provision of this Agreement, such applicant contracting party shall so notify the CONTRACTING PARTIES and shall transmit to them a written statement of the considerations in support of the adoption of the proposed measure.

(b) The CONTRACTING PARTIES shall promptly transmit such statement to all other contracting parties, and any contracting party which considers that its trade would be substantially affected by the proposed measure shall transmit its views to the CONTRACTING PARTIES within such period as shall be prescribed by them.

(c) The CONTRACTING PARTIES shall then promptly examine the proposed measure to determine whether they concur in it, with or without modification, and shall in their examination have regard to the provisions of this Agreement, to the considerations presented by the applicant contracting party and its stage of economic development or reconstruction, to the views presented by contracting parties which may be substantially affected, and to the effect which the proposed measure, with or without modification, is likely to have on international trade.

3. (a) If, as a result of their examination pursuant to paragraph 2(c) of this Article, the CONTRACTING PARTIES concur in principle in any proposed measure, with or without modification, which would be inconsistent with any obligation that the applicant contracting party has assumed under Article II, or which would tend to nullify or impair the benefit to any other contracting party or parties of any such obligation, the CONTRACTING PARTIES shall sponsor and assist in negotiations between the applicant contracting party and the other contracting party or parties which would be substantially affected with a view to obtaining substantial agreement. The CONTRACTING

PARTIES shall establish and communicate to the contracting parties concerned a time schedule for such negotiations.

(b) Contracting parties shall commence the negotiations provided for in sub-paragraph (a) of this paragraph within such period as the CONTRACTING PARTIES may prescribe and shall thereafter, unless the CONTRACTING PARTIES decide otherwise, proceed continuously with such negotiations with a view to reaching substantial agreement in accordance with the time schedule laid down by the CONTRACTING PARTIES.

(c) Upon substantial agreement being reached, the CONTRACTING PARTIES may release the applicant contracting party from the obligation referred to in sub-paragraph (a) of this paragraph or from any other relevant obligation under this Agreement, subject to such limitations as may have been agreed upon in the negotiations between the contracting parties concerned.

4. (a) If, as a result of their examination pursuant to paragraph 2(c) of this Article, the CONTRACTING PARTIES concur in any proposed measure, with or without modification, other than a measure referred to in paragraph 3(a) of this Article, which would be inconsistent with any provision of this Agreement, the CONTRACTING PARTIES may release the applicant contracting party from any obligation under such provision, subject to such limitations as they may impose.

(b) If, having regard to the provisions of paragraph 2(c) of this Article, it is established in the course of such examination that such measure is unlikely to be more restrictive of international trade than any other practicable and reasonable measure permitted under this Agreement which could be imposed without undue difficulty and that it is the one most suitable for the purpose having regard to the economics of the industry or the branch of agriculture concerned and to the current economic condition of the applicant contracting party, the CONTRACTING PARTIES shall concur in such measure and grant such release as may be required to enable such measure to be made effective.

(c) If in anticipation of the concurrence of the CONTRACTING PARTIES in the adoption of a measure concerning which notice has been given under paragraph 2 of this Article, other than a measure referred to in paragraph 3(a) of this Article, there should be an increase or threatened increase in the importations of the product or products concerned, including products which can be directly substituted therefor, so substantial as to jeopardize the plans of the applicant contracting party for the establishment, development or reconstruction of the industry or industries or branches of agriculture concerned, and if no preventive measures consistent with this Agreement can be found which seem likely to prove effective, the applicant contracting party may, after informing, and when practicable consulting with, the CONTRACTING PARTIES, adopt such other measures as the situation may require pending a determination by the CONTRACTING PARTIES, provided that such measures do not reduce imports below the level obtaining in the most recent represent-

ative period preceding the date on which the contracting party's original notification was made under paragraph 2 of this Article.

5. (a) In the case of measures referred to in paragraph 3 of this Article, the CONTRACTING PARTIES shall, at the earliest opportunity but ordinarily within fifteen days after receipt of the statement referred to in paragraph 2(a) of this Article, advise the applicant contracting party of the date by which they will notify it whether or not they concur in principle in the proposed measure, with or without modification.

(b) In the case of measures referred to in paragraph 4 of this Article, the CONTRACTING PARTIES shall, as in sub-paragraph (a) of this paragraph, advise the applicant contracting party of the date by which they will notify it whether or not it is released from such obligation or obligations as may be relevant; *Provided that*, if the applicant contracting party does not receive a final reply by the date fixed by the CONTRACTING PARTIES, it may, after communicating with the CONTRACTING PARTIES, institute the proposed measure upon the expiration of a further thirty days from such date.

6. Any contracting party may maintain any non-discriminatory measure, in force on September 1, 1947, which has been imposed for the establishment, development or reconstruction of particular industries or particular branches of agriculture and which is not otherwise permitted by this Agreement; *Provided that* any such contracting party shall have notified the other contracting parties, not later than October 10, 1947, of each product on which any such existing measure is to be maintained and of the nature and purpose of such measure. Any contracting party maintaining any such measure shall, within sixty days of becoming a contracting party, notify the CONTRACTING PARTIES of the measure concerned, the considerations in support of its maintenance and the period for which it wishes to maintain the measure. The CONTRACTING PARTIES shall, as soon as possible but in any case within twelve months from the day on which such contracting party becomes a contracting party, examine and give a decision concerning the measure as if it had been submitted to the CONTRACTING PARTIES for their concurrence under the provisions of the preceding paragraphs of this Article. The CONTRACTING PARTIES, in making a decision under this paragraph specifying a date by which any modification in or withdrawal of the measure is to be made, shall have regard to the possible need of a contracting party for a suitable period of time in which to make such modification or withdrawal.

7. The provisions of paragraph 6 of this Article shall not apply, in respect of any contracting party, to any product described in the appropriate Schedule annexed to this Agreement.

ARTICLE XIX

Emergency Action on Imports of Particular Products

1. (a) If, as a result of unforeseen developments and of the effect of the obligations incurred by a contracting party under this Agreement, including

tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession.

(b) If any product, which is the subject of a concession with respect to a preference, is being imported into the territory of a contracting party in the circumstances set forth in sub-paragraph (a) of this paragraph, so as to cause or threaten serious injury to domestic producers of like or directly competitive products in the territory of a contracting party which receives or received such preference, the importing contracting party shall be free, if that other contracting party so requests, to suspend the relevant obligation in whole or in part or to withdraw or modify the concession in respect of the product, to the extent and for such time as may be necessary to prevent or remedy such injury.

2. Before any contracting party shall take action pursuant to the provisions of paragraph 1 of this Article, it shall give notice in writing to the CONTRACTING PARTIES as far in advance as may be practicable and shall afford the CONTRACTING PARTIES and those contracting parties having a substantial interest as exporters of the product concerned an opportunity to consult with it in respect of the proposed action. When such notice is given in relation to a concession with respect to a preference, the notice shall name the contracting party which has requested the action. In critical circumstances, where delay would cause damage which it would be difficult to repair, action under paragraph 1 of this Article may be taken provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action.

3. (a) If agreement among the interested contracting parties with respect to the action is not reached, the contracting party which proposes to take or continue the action shall, nevertheless, be free to do so, and if such action is taken or continued, the affected contracting parties shall then be free, not later than ninety days after such action is taken, to suspend, upon the expiration of thirty days from the day on which written notice of such suspension is received by the CONTRACTING PARTIES, the application to the trade of the contracting party taking such action, or, in the case envisaged in paragraph 1(b) of this Article, to the trade of the contracting party requesting such action, of such substantially equivalent obligations or concessions under this Agreement the suspension of which the CONTRACTING PARTIES do not disapprove.

(b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, where action is taken under paragraph 2 of this Article without prior consultation and causes or threatens serious injury in the territory of a con-

tracting party to the domestic producers of products affected by the action, that contracting party shall, where delay would cause damage difficult to repair, be free to suspend, upon the taking of the action and throughout the period of consultation, such obligations or concessions as may be necessary to prevent or remedy the injury.

ARTICLE XX

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

- I. (a) necessary to protect public morals;
 - (b) necessary to protect human, animal or plant life or health;
 - (c) relating to the importation or exportation of gold or silver;
 - (d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;
 - (e) relating to the products of prison labour;
 - (f) imposed for the protection of national treasures of artistic, historic or archaeological value;
 - (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;
 - (h) undertaken in pursuance of obligations under intergovernmental commodity agreements, conforming to the principles approved by the Economic and Social Council of the United Nations in its Resolution of March 28, 1947, establishing an Interim Co-ordinating Committee for International Commodity Arrangements; or
 - (i) involving restrictions on exports of domestic materials necessary to assure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan; *Provided* that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination;
- II. (a) essential to the acquisition or distribution of products in general or local short supply; *Provided* that any such measures shall be consistent with any multilateral arrangements directed to an equitable international distribution of such products or, in the absence of such arrangements, with

the principle that all contracting parties are entitled to an equitable share of the international supply of such products;

(b) essential to the control of prices by a contracting party undergoing shortages subsequent to the war; or

(c) essential to the orderly liquidation of temporary surpluses of stocks owned or controlled by the government of any contracting party or of industries developed in the territory of any contracting party owing to the exigencies of the war which it would be uneconomic to maintain in normal conditions; *Provided* that such measures shall not be instituted by any contracting party except after consultation with other interested contracting parties with a view to appropriate international action.

Measures instituted or maintained under part II of this Article which are inconsistent with the other provisions of this Agreement shall be removed as soon as the conditions giving rise to them have ceased, and in any event not later than January 1, 1951; *Provided* that this period may, with the concurrence of the CONTRACTING PARTIES, be extended in respect of the application of any particular measure to any particular product by any particular contracting party for such further periods as the CONTRACTING PARTIES may specify.

ARTICLE XXI

Security Exceptions

Nothing in this Agreement shall be construed

(a) to require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests; or

(b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests

(i) relating to fissionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(iii) taken in time of war or other emergency in international relations;

or

(c) to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

ARTICLE XXII

Consultation

Each contracting party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such represen-

tations as may be made by any other contracting party with respect to the operation of customs regulations and formalities, anti-dumping and countervailing duties, quantitative and exchange regulations, subsidies, state-trading operations, sanitary laws and regulations for the protection of human, animal or plant life or health, and generally all matters affecting the operation of this Agreement.

ARTICLE XXIII

Nullification or Impairment

1. If any contracting party should consider that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired or that the attainment of any objective of the Agreement is being impeded as the result of (a) the failure of another contracting party to carry out its obligations under this Agreement, or (b) the application by another contracting party of any measure, whether or not it conflicts with the provisions of this Agreement, or (c) the existence of any other situation, the contracting party may, with a view to the satisfactory adjustment of the matter, make written representations or proposals to the other contracting party or parties which it considers to be concerned. Any contracting party thus approached shall give sympathetic consideration to the representations or proposals made to it.

2. If no satisfactory adjustment is effected between the contracting parties concerned within a reasonable time, or if the difficulty is of the type described in paragraph 1(c) of this Article, the matter may be referred to the CONTRACTING PARTIES. The CONTRACTING PARTIES shall promptly investigate any matter so referred to them and shall make appropriate recommendations to the contracting parties which they consider to be concerned, or give a ruling on the matter, as appropriate. The CONTRACTING PARTIES may consult with contracting parties, with the Economic and Social Council of the United Nations and with any appropriate inter-governmental organization in cases where they consider such consultation necessary. If the CONTRACTING PARTIES consider that the circumstances are serious enough to justify such action, they may authorize a contracting party or parties to suspend the application to any other contracting party or parties of such obligations or concessions under this Agreement as they determine to be appropriate in the circumstances. If the application to any contracting party of any obligation or concession is in fact suspended, that contracting party shall then be free, not later than sixty days after such action is taken, to advise the Secretary-General of the United Nations in writing of its intention to withdraw from this Agreement and such withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of such withdrawal is received by him.

PART III

ARTICLE XXIV¹⁹*Territorial Application—Frontier Traffic—Customs Unions*

1. The rights and obligations arising under this Agreement shall be deemed to be in force between each and every territory which is a separate customs territory and in respect of which this Agreement has been accepted under Article XXVI or is being applied under the Protocol of Provisional Application.

2. The provisions of this Agreement shall not be construed to prevent:

(a) advantages accorded by any contracting party to adjacent countries in order to facilitate frontier traffic;

(b) the formation of a customs union or the adoption of an interim agreement necessary for the attainment of a customs union; *Provided* that the duties and other regulations of commerce imposed by, or any margin of preference maintained by, any such union or agreement in respect of trade with other contracting parties shall not on the whole be higher or more stringent than the average level of the duties and regulations of commerce or margins of preference applicable in the constituent territories prior to the formation of such union or the adoption of such agreement; and *Provided* further that any such interim agreement shall include a definite plan and schedule for the attainment of such a customs union within a reasonable length of time.

3. (a) Any contracting party proposing to enter into a customs union shall consult with the CONTRACTING PARTIES and shall make available to them such information regarding the proposed union as will enable them to make such reports and recommendations to contracting parties as may be deemed appropriate.

(b) No contracting party shall institute or maintain any interim agreement under the provisions of paragraph 2 (b) of this Article if, after a study of the plan and schedule proposed in such agreement, the CONTRACTING PARTIES find that such agreement is not likely to result in such a customs union within a reasonable length of time.

(c) The plan or schedule shall not be substantially altered without consultation with the CONTRACTING PARTIES.

4. For the purposes of this Article a customs territory shall be understood to mean any territory with respect to which separate tariffs or other regulations of commerce are maintained for a substantial part of the trade of such territory with other territories. A customs union shall be understood to mean the substitution of a single customs territory for two or more customs territories, so that all tariffs and other restrictive regulations of commerce as be-

¹⁹ See also interpretative notes, p. 686.

tween the territories of members of the union are substantially eliminated and substantially the same tariffs and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union.

5. Taking into account the exceptional circumstances arising out of the establishment of India and Pakistan as independent states and recognizing the fact that they have long constituted an economic unit, the contracting parties agree that the provisions of this Agreement shall not prevent the two countries from entering into special arrangements with respect to the trade between them, pending the establishment of their mutual trade relations on a definitive basis.

6. Each contracting party shall take such reasonable measures as may be available to it to assure observance of the provisions of this Agreement by the regional and local governments and authorities within its territory.

ARTICLE XXV

Joint Action by the Contracting Parties

1. Representatives of the contracting parties shall meet from time to time for the purpose of giving effect to those provisions of this Agreement which involve joint action and, generally, with a view to facilitating the operation and furthering the objectives of this Agreement. Wherever reference is made in this Agreement to the contracting parties acting jointly they are designated as the CONTRACTING PARTIES.

2. The Secretary-General of the United Nations is requested to convene the first meeting of the CONTRACTING PARTIES which shall take place not later than March 1, 1948.

3. Each contracting party shall be entitled to have one vote at all meetings of the CONTRACTING PARTIES.

4. Except as otherwise provided for in this Agreement, decisions of the CONTRACTING PARTIES shall be taken by a majority of the votes cast.

5. In exceptional circumstances not elsewhere provided for in this Agreement, the CONTRACTING PARTIES may waive an obligation imposed upon a contracting party by this Agreement; *Provided* that any such decision shall be approved by a two-thirds majority of the votes cast and that such majority shall comprise more than half of the contracting parties. The CONTRACTING PARTIES may also by such a vote

(a) define certain categories of exceptional circumstances to which other voting requirements shall apply for the waiver of obligations, and

(b) prescribe such criteria as may be necessary for the application of this paragraph.

ARTICLE XXVI²⁰*Acceptance, Entry into Force and Registration*

1. The present Agreement shall bear the date of the signature of the Final Act adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment and shall be open to acceptance by any government signatory to the Final Act.

2. This Agreement, done in a single English original and in a single French original, both texts authentic, shall be deposited with the Secretary-General of the United Nations, who shall furnish certified copies thereof to all interested governments.

3. Each government accepting this Agreement shall deposit an instrument of acceptance with the Secretary-General of the United Nations, who will inform all interested governments of the date of deposit of each instrument of acceptance and of the day on which this Agreement enters into force under paragraph 5 of this Article.

4. Each government accepting this Agreement does so in respect of its metropolitan territory and of the other territories for which it has international responsibility; *Provided* that it may at the time of acceptance declare that any separate customs territory for which it has international responsibility possesses full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement, and that its acceptance does not relate to such territory; and *Provided* further that if any of the customs territories on behalf of which a contracting party has accepted this Agreement possesses or acquires full autonomy in the conduct of its external commercial relations and of the other matters provided for in this 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.

5. (a) This Agreement shall enter into force, as among the governments which have accepted it, on the thirtieth day following the day on which instruments of acceptance have been deposited with the Secretary-General of the United Nations on behalf of governments signatory to the Final Act the territories of which account for eighty-five per centum of the total external trade of the territories of the signatories to the Final Act adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment. Such percentage shall be determined in accordance with the table set forth in Annex H. The instrument of acceptance of each other government signatory to the Final Act shall take effect on the thirtieth day following the day on which such instrument is deposited.

²⁰ See also interpretative notes, p. 687.

(b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, this Agreement shall not enter into force under this paragraph until any agreement necessary under the provisions of paragraph 2(a) of Article XXIX has been reached.

6. The United Nations is authorized to effect registration of this Agreement as soon as it enters into force.

ARTICLE XXVII

Withholding or Withdrawal of Concessions

Any contracting party shall at any time be free to withhold or to withdraw in whole or in part any concession, provided for in the appropriate Schedule annexed to this Agreement, in respect of which such contracting party determines that it was initially negotiated with a government which has not become, or has ceased to be, a contracting party. The contracting party taking such action shall give notice to all other contracting parties and, upon request, consult with the contracting parties which have a substantial interest in the product concerned.

ARTICLE XXVIII

Modification of Schedules

1. On or after January 1, 1951, any contracting party may, by negotiation and agreement with any other contracting party with which such treatment was initially negotiated, and subject to consultation with such other contracting parties as the CONTRACTING PARTIES determine to have a substantial interest in such treatment, modify, or cease to apply, the treatment which it has agreed to accord under Article II to any product described in the appropriate Schedule annexed to this Agreement. In such negotiations and agreement, which may include provision for compensatory adjustment with respect to other products, the contracting parties concerned shall endeavour to maintain a general level of reciprocal and mutually advantageous concessions not less favourable to trade than that provided for in the present Agreement.

2. (a) If agreement between the contracting parties primarily concerned cannot be reached, the contracting party which proposes to modify or cease to apply such treatment shall, nevertheless, be free to do so, and if such action is taken the contracting party with which such treatment was initially negotiated, and the other contracting parties determined under paragraph 1 of this Article to have a substantial interest, shall then be free, not later than six months after such action is taken, to withdraw, upon the expiration of thirty days from the day on which written notice of such withdrawal is received by the CONTRACTING PARTIES, substantially equivalent concessions initially negotiated with the contracting party taking such action.

(b) If agreement between the contracting parties primarily concerned is reached but any other contracting party determined under paragraph 1 of this Article to have a substantial interest is not satisfied, such other contracting party shall be free, not later than six months after action under such agreement is taken, to withdraw, upon the expiration of thirty days from the day on which written notice of such withdrawal is received by the CONTRACTING PARTIES, substantially equivalent concessions initially negotiated with a contracting party taking action under such agreement.

ARTICLE XXIX

Relation of this Agreement to the Charter for an International Trade Organization

1. The contracting parties, recognizing that the objectives set forth in the preamble of this Agreement can best be attained through the adoption, by the United Nations Conference on Trade and Employment, of a Charter leading to the creation of an International Trade Organization, undertake, pending their acceptance of such a Charter in accordance with their constitutional procedures, to observe to the fullest extent of their executive authority the general principles of the Draft Charter submitted to the Conference by the Preparatory Committee.

2. (a) On the day on which the Charter of the International Trade Organization²¹ enters into force, Article I and Part II of this Agreement shall be suspended and superseded by the corresponding provisions of the Charter; *Provided* that within sixty days of the closing of the United Nations Conference on Trade and Employment any contracting party may lodge with the other contracting parties an objection to any provisions of this Agreement being so suspended and superseded; in such case the contracting parties shall, within sixty days after the final date for the lodging of objections, confer to consider the objection in order to agree whether the provisions of the Charter to which objection has been lodged, or the corresponding provisions of this Agreement in its existing form or any amended form, shall apply.

(b) The contracting parties will also agree concerning the transfer to the International Trade Organization of their functions under Article XXV.

3. If any contracting party has not accepted the Charter when it has entered into force, the contracting parties shall confer to agree whether, and if so in what way, this Agreement, insofar as it affects relations between the contracting party which has not accepted the Charter and other contracting parties, shall be supplemented or amended.

4. During the month of January 1949, should the Charter not have entered into force, or at such earlier time as may be agreed if it is known that the Charter will not enter into force, or at such later time as may be agreed if

²¹ Unperfected; for excerpts, see *A Decade of American Foreign Policy: Basic Documents, 1941-49* (S. Doc. 123, 81st Cong., 1st sess.), p. 391.

the Charter ceases to be in force, the contracting parties shall meet to agree whether this Agreement shall be amended, supplemented or maintained.

5. The signatories of the Final Act which are not at the time contracting parties shall be informed of any objection lodged by a contracting party under the provisions of paragraph 2 of this Article and also of any agreement which may be reached between the contracting parties under paragraphs 2, 3 or 4 of this Article.

ARTICLE XXX

Amendments

1. Except where provision for modification is made elsewhere in this Agreement, amendments to the provisions of Part I of this Agreement or to the provisions of Article XXIX or of this Article shall become effective upon acceptance by all the contracting parties, and other amendments to this Agreement shall become effective, in respect of those contracting parties which accept them, upon acceptance by two-thirds of the contracting parties and thereafter for each other contracting party upon acceptance by it.

2. Any contracting party accepting an amendment to this Agreement shall deposit an instrument of acceptance with the Secretary-General of the United Nations within such period as the CONTRACTING PARTIES may specify. The CONTRACTING PARTIES may decide that any amendment made effective under this Article is of such a nature that any contracting party which has not accepted it within a period specified by the CONTRACTING PARTIES shall be free to withdraw from this Agreement, or to remain a contracting party with the consent of the CONTRACTING PARTIES.

ARTICLE XXXI

Withdrawal

Without prejudice to the provisions of Article XXIII or of paragraph 2 of Article XXX, any contracting party may, on or after January 1, 1951, withdraw from this Agreement, or may separately withdraw on behalf of any of the separate customs territories for which it has international responsibility and which at the time possesses full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement. The withdrawal shall take effect on or after January 1, 1951, upon the expiration of six months from the day on which written notice of withdrawal is received by the Secretary-General of the United Nations.

ARTICLE XXXII

Contracting Parties

1. The contracting parties to this Agreement shall be understood to mean those governments which are applying the provisions of this Agreement

under Article XXVI or pursuant to the Protocol of Provisional Application.

2. At any time after the entry into force of this Agreement pursuant to paragraph 5 of Article XXVI, those contracting parties which have accepted this Agreement pursuant to paragraph 3 of Article XXVI may decide that any contracting party which has not so accepted it shall cease to be a contracting party.

ARTICLE XXXIII

Accession

A government not party to this 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 this Agreement, may accede to this Agreement, on its own behalf or on behalf of that territory, on terms to be agreed between such government and the contracting parties.

ARTICLE XXXIV

Annexes

The annexes to this Agreement are hereby made an integral part of this Agreement.

ANNEX A

List of Territories Referred to in Paragraph 2 (a) of Article I

United Kingdom of Great Britain and Northern Ireland
 Dependent territories of the United Kingdom of Great Britain and Northern Ireland
 Canada
 Commonwealth of Australia
 Dependent territories of the Commonwealth of Australia
 New Zealand
 Dependent territories of New Zealand
 Union of South Africa including South West Africa
 Ireland
 India (as on April 10, 1947)
 Newfoundland
 Southern Rhodesia
 Burma
 Ceylon

Certain of the territories listed above have two or more preferential rates in force for certain products. Any such territory may, by agreement with the other contracting parties which are principal suppliers of such products at the most-favoured-nation rate, substitute for such preferential rates a single preferential rate which shall not on the whole be less favourable to suppliers at the most-favoured-nation rate than the preference in force prior to such substitution.

The imposition of an equivalent margin of tariff preference to replace a margin of preference in an internal tax existing on April 10, 1947, exclusively between two or more of the territories listed in this Annex or to replace the preferential quantitative arrangements described in the following paragraph, shall not be deemed to constitute an increase in a margin of tariff preference.

The preferential arrangements referred to in paragraph 5 (b) of Article XIV are those existing in the United Kingdom on April 10, 1947, under contractual agreements with the Governments of Canada, Australia and New Zealand, in respect of chilled and frozen beef and veal, frozen mutton and lamb, chilled and frozen pork, and bacon. It is the intention, without prejudice to any action taken under part I (h) of Article XX, that these arrangements shall be eliminated or replaced by tariff preferences, and that negotiations to this end shall take place as soon as practicable among the countries substantially concerned or involved.

The film hire tax in force in New Zealand on April 10, 1947, shall, for the purposes of this Agreement, be treated as a customs duty under Article I. The renters' film quota in force in New Zealand on April 10, 1947, shall, for the purposes of this Agreement, be treated as a screen quota under Article IV.

ANNEX B

List of Territories of the French Union Referred to in Paragraph 2 (b) of Article I

France

French Equatorial Africa (Treaty Basin of the Congo ²² and other territories)

French West Africa

Cameroons under French Mandate ²²

French Somali Coast and Dependencies

French Establishments in India ²²

French Establishments in Oceania

French Establishments in the Condominium of the New Hebrides ²²

Guadeloupe and Dependencies

French Guiana

Indo-China

Madagascar and Dependencies

Morocco (French zone) ²²

Martinique

New Caledonia and Dependencies

Réunion

Saint-Pierre and Miquelon

Togo under French Mandate ²²

Tunisia

²² For imports into Metropolitan France. [Footnote in original.] See rectification contained in protocol of Mar. 24, 1948 (TIAS 1761), *post*, p. 704.

ANNEX C

List of Territories of the Customs Union of Belgium, Luxembourg and the Netherlands Referred to in Paragraph 2 (b) of Article I

The Economic Union of Belgium and Luxembourg

Belgian Congo

Ruanda Urundi

Netherlands

Netherlands Indies

Surinam

Curacao

For imports into the metropolitan territories constituting the Customs Union.

ANNEX D

List of Territories Referred to in Paragraph 2 (b) of Article I as Respects the United States of America

United States of America (customs territory)

Dependent territories of the United States of America

Republic of the Philippines

The imposition of an equivalent margin of tariff preference to replace a margin of preference in an internal tax existing on April 10, 1947, exclusively between two or more of the territories listed in this Annex shall not be deemed to constitute an increase in a margin of tariff preference.

ANNEX E

List of Territories Covered by Preferential Arrangements Between Chile and Neighbouring Countries Referred to in Paragraph 2 (d) of Article I

Preferences in force exclusively between Chile, on the one hand, and

1. Argentina
2. Bolivia
3. Peru

on the other hand.

ANNEX F

List of Territories Covered by Preferential Arrangements Between Lebanon and Syria and Neighbouring Countries Referred to in Paragraph 2 (d) of Article I

Preferences in force exclusively between the Lebano-Syrian Customs Union, on the one hand, and

1. Palestine
2. Transjordan

on the other hand.

ANNEX G

Dates Establishing Maximum Margins of Preference Referred to in Paragraph 3 of Article I

Australia	October 15, 1946
Canada	July 1, 1939
France	January 1, 1939
Lebano-Syrian Customs Union	November 30, 1939
Union of South Africa	July 1, 1938
Southern Rhodesia	May 1, 1941

ANNEX H

Percentage Shares of Total External Trade To Be Used for the Purpose of Making the Determination Referred to in Article XXVI

(Based on the average of 1938 and the latest twelve months for which figures are available)

	<i>Percentage</i>
Australia	3.2
Belgium-Luxemburg-Netherlands	10.9
Brazil	2.8
Burma	0.7
Canada	7.2
Ceylon	0.6
Chile	0.6
China	2.7
Cuba	0.9
Czechoslovakia	1.4
French Union	9.4
India	²³ 3.3
Pakistan	
New Zealand	1.2
Norway	1.5
Southern Rhodesia	0.3
Lebano-Syrian Customs Union	0.1
Union of South Africa	2.3
United Kingdom of Great Britain and Northern Ireland	25.7
United States of America	25.2
	100.0

NOTE: These percentages have been determined taking into account the trade of all territories for which countries mentioned above have international responsibility and which are not self-governing in matters dealt with in the General Agreement on Tariffs and Trade.

²³ The allocation of this percentage will be made by agreement between the governments of India and Pakistan and will be communicated as soon as possible to the Secretary-General of the United Nations. [Footnote in original.]

ANNEX I

Interpretative Notes

AD ARTICLE I

Paragraph 1

The obligations incorporated in paragraph 1 of Article I by reference to paragraphs 1 and 2 of Article III and those incorporated in paragraph 2 (b) of Article II by reference to Article VI shall be considered as falling within Part II for the purposes of the Protocol of Provisional Application.

Paragraph 3

The term "margin of preference" means the absolute difference between the most-favoured-nation rate of duty and the preferential rate of duty for the like product, and not the proportionate relation between those rates. As examples:

1.) If the most-favoured-nation rate were 36 per cent ad valorem and the preferential rate were 24 per cent ad valorem, the margin of preference would be 12 per cent ad valorem, and not one-third of the most-favoured-nation rate;

2.) If the most-favoured-nation rate were 36 per cent ad valorem and the preferential rate were expressed as two-thirds of the most-favoured-nation rate, the margin of preference would be 12 per cent ad valorem;

3.) If the most-favoured-nation rate were 2 francs per kilogram and the preferential rate were 1.50 francs per kilogram, the margin of preference would be 0.50 francs per kilogram.

The following kinds of customs action, taken in accordance with established uniform procedures, would not be contrary to a general binding of margins of preference:

(i) the re-application to an imported product of a tariff classification or rate of duty, properly applicable to such product, in cases in which the application of such classification or rate to such product was temporarily suspended or inoperative on April 10, 1947; and

(ii) the classification of a particular product under a tariff item other than that under which importations of that product were classified on April 10, 1947, in cases in which the tariff law clearly contemplates that such product may be classified under more than one tariff item.

AD ARTICLE II

Paragraph 2(b)

See the note relating to paragraph 1 of Article I.

Paragraph 4

Except where otherwise specifically agreed between the contracting parties which initially negotiated the concession, the provisions of this paragraph will be applied in the light of the provisions of Article 31 of the Draft Charter referred to in Article XXIX of this Agreement.

AD ARTICLE V

Paragraph 5

With regard to transportation charges, the principle laid down in paragraph 5 refers to like products being transported on the same route under like conditions.

AD ARTICLE VI

Paragraph 1

Hidden dumping by associated houses (that is, a sale by an importer at a price below that corresponding to the price invoiced by an exporter with whom the importer is associated, and also below the price in the exporting country) constitutes a form of price dumping.

Paragraph 2

Multiple currency practices can in certain circumstances constitute a subsidy to exports which may be met by countervailing duties under paragraph 2 or can constitute a form of dumping by means of a partial depreciation of a country's currency which may be met by action under paragraph 1 of this Article. By "multiple currency practices" is meant practices by governments or sanction by governments.

Paragraph 7

The obligations set forth in paragraph 7, as in the case of other obligations under this Agreement, are subject to the provisions of Article XIX.

AD ARTICLE VII

Paragraph 1

Consideration was given to the desirability of replacing the words "at the earliest practicable date" by a definite date or, alternatively, by a provision for a specified limited period to be fixed later. It was appreciated that it would not be possible for all contracting parties to give effect to these principles by a fixed time, but it was nevertheless understood that a majority of the contracting parties would give effect to them at the time the Agreement enters into force.

Paragraph 2

It would be in conformity with Article VII to presume that "actual value" may be represented by the invoice price, plus any non-included charges for

legitimate costs which are proper elements of "actual value" and plus any abnormal discount or other reduction from the ordinary competitive price.

It would be in conformity with Article VII, paragraph 2(b), for a contracting party to construe the phrase "in the ordinary course of trade", read in conjunction with "under fully competitive conditions", as excluding any transaction wherein the buyer and seller are not independent of each other and price is not the sole consideration.

The prescribed standard of "fully competitive conditions" permits contracting parties to exclude from consideration distributors' prices which involve special discounts limited to exclusive agents.

The wording of sub-paragraph (a) and (b) permits a contracting party to assess duty uniformly either (1) on the basis of a particular exporter's prices of the imported merchandise, or (2) on the basis of the general price level of like merchandise.

AD ARTICLE VIII

While Article VIII does not cover the use of multiple rates of exchange as such, paragraphs 1 and 4 condemn the use of exchange taxes or fees as a device for implementing multiple currency practices; if, however, a contracting party is using multiple currency exchange fees for balance-of-payments reasons with the approval of the International Monetary Fund, the provisions of paragraph 2 fully safeguard its position since that paragraph merely requires that the fees be eliminated at the earliest practicable date.

AD ARTICLE XI

Paragraph 2(c)

The term "in any form" in this paragraph covers the same products when in an early stage of processing and still perishable, which compete directly with the fresh product and if freely imported would tend to make the restriction on the fresh product ineffective.

Paragraph 2, last sub-paragraph

The term "special factors" includes changes in relative productive efficiency as between domestic and foreign producers, or as between different foreign producers, but not changes artificially brought about by means not permitted under the Agreement.

AD ARTICLE XII

Paragraph 3(b)(i)

The phrase "notwithstanding the provisions of paragraph 2 of this Article" has been included in the text to make it clear that a contracting party's import restrictions otherwise "necessary" within the meaning of paragraph 2(a) shall not be considered unnecessary on the ground that a change in

domestic policies as referred to in the text could improve a contracting party's monetary reserve position. The phrase is not intended to suggest that the provisions of paragraph 2 are affected in any other way.

Consideration was given to the special problems that might be created for contracting parties which, as a result of their programmes of full employment, maintenance of high and rising levels of demand and economic development, find themselves faced with a high level of demand for imports, and in consequence maintain quantitative regulation of their foreign trade. It was considered that the present text of Article XII together with the provision for export controls in certain parts of the Agreement, e.g. in Article XX, fully meet the position of these economies.

AD ARTICLE XIII

Paragraph 2(d)

No mention was made of "commercial considerations" as a rule for the allocation of quotas because it was considered that its application by governmental authorities might not always be practicable. Moreover, in cases where it is practicable, a contracting party could apply these considerations in the process of seeking agreement, consistently with the general rule laid down in the opening sentence of paragraph 2.

Paragraph 4

See note relating to "special factors" in connection with the last subparagraph of paragraph 2 of Article XI.

AD ARTICLE XIV

Paragraph 3

It was not considered necessary to make express reference in paragraph 3 to the need for the CONTRACTING PARTIES to consult with the International Monetary Fund, since such consultation in all appropriate cases was already required by virtue of the provisions of paragraph 2 of Article XV.

Paragraph 6(b)

Suspension of any measure for a period of fifteen days would be for the purpose of making the consultation effective, and among the special circumstances which would justify such suspension would be the immediate damage caused to producers of perishable commodities ready for shipment or to consumers of essential goods of which the importing country had no stocks.

AD ARTICLE XV

Paragraph 4

The word "frustrate" is intended to indicate, for example, that infringements of the letter of any Article of this Agreement by exchange action shall not be regarded as a violation of that Article if, in practice, there is no

appreciable departure from the intent of the Article. Thus, a contracting party which, as part of its exchange control operated in accordance with the Articles of Agreement of the International Monetary Fund, requires payment to be received for its exports in its own currency or in the currency of one or more members of the International Monetary Fund will not thereby be deemed to contravene Article XI or Article XIII. Another example would be that of a contracting party which specifies on an import license the country from which the goods may be imported, for the purpose not of introducing any additional element of discrimination in its import licensing system but of enforcing permissible exchange controls.

AD ARTICLE XVII

Paragraph 1

The operations of Marketing Boards, which are established by contracting parties and are engaged in purchasing or selling, are subject to the provisions of sub-paragraphs (a) and (b).

The activities of Marketing Boards which are established by contracting parties and which do not purchase or sell but lay down regulations covering private trade are governed by the relevant Articles of this Agreement.

The charging by a state enterprise of different prices for its sales of a product in different markets is not precluded by the provisions of this Article, provided that such different prices are charged for commercial reasons, to meet conditions of supply and demand in export markets.

Paragraph 1(a)

Governmental measures imposed to ensure standards of quality and efficiency in the operation of external trade, or privileges granted for the exploitation of national natural resources but which do not empower the government to exercise control over the trading activities of the enterprise in question, do not constitute "exclusive or special privileges".

Paragraph 1(b)

A country receiving a "tied loan" is free to take this loan into account as a "commercial consideration" when purchasing requirements abroad.

Paragraph 2

The term "goods" is limited to products as understood in commercial practice, and is not intended to include the purchase or sale of services.

AD ARTICLE XXIV

Paragraph 5

Measures adopted by India and Pakistan in order to carry out definitive trade arrangements between them, once they have been agreed upon, might

depart from particular provisions of this Agreement, but these measures would in general be consistent with the objectives of the Agreement.

AD ARTICLE XXVI

Territories for which the contracting parties have international responsibility do not include areas under military occupation.

Final Note

The applicability of the General Agreement on Tariffs and Trade to the trade of contracting parties with the areas under military occupation has not been dealt with and is reserved for further study at an early date. Meanwhile, nothing in this Agreement shall be taken to prejudge the issues involved. This, of course, does not affect the applicability of the provisions of Articles XXII and XXIII to matters arising from such trade.

[For schedules of tariff concessions annexed to the General Agreement, see 61 Stat. A91 or TIAS 1700, p. 87.]

PROTOCOL OF PROVISIONAL APPLICATION OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE

1. The Governments of the COMMONWEALTH OF AUSTRALIA, the KINGDOM OF BELGIUM (in respect of its metropolitan territory), CANADA, the FRENCH REPUBLIC (in respect of its metropolitan territory), the GRAND-DUCHY OF LUXEMBURG, the KINGDOM OF THE NETHERLANDS (in respect of its metropolitan territory), the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (in respect of its metropolitan territory), and the UNITED STATES OF AMERICA, undertake, provided that this Protocol shall have been signed on behalf of all the foregoing Governments not later than November 15, 1947, to apply provisionally on and after January 1, 1948:

- (a) Parts I and III of the General Agreement on Tariffs and Trade, and
- (b) Part II of that Agreement to the fullest extent not inconsistent with existing legislation.

2. The foregoing Governments shall make effective such provisional application of the General Agreement, in respect of any of their territories other than their metropolitan territories, on or after January 1, 1948, upon the expiration of thirty days from the day on which notice of such application is received by the Secretary-General of the United Nations.

3. Any other Government signatory to this Protocol shall make effective such provisional application of the General Agreement, on or after January 1, 1948, upon the expiration of thirty days from the day of signature of this Protocol on behalf of such Government.

4. This Protocol shall remain open for signature at the Headquarters of the United Nations, (a) until November 15, 1947, on behalf of any Government named in paragraph 1 of this Protocol which has not signed it on this day and (b) until June 30, 1948, on behalf of any other Government signatory to the Final Act adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment which has not signed it on this day.

5. Any Government applying this Protocol shall be free to withdraw such application, and such withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of such withdrawal is received by the Secretary-General of the United Nations.

6. The original of this Protocol shall be deposited with the Secretary-General of the United Nations, who will furnish certified copies thereof to all interested Governments.

In witness whereof the respective Representatives, after having communicated their full powers, found to be in good and due form, have signed this Protocol.

Done at Geneva, in a single copy, in the English and French languages, both texts authentic, this thirtieth day of October, one thousand nine hundred and forty-seven.

For the Kingdom of Belgium:

P. A. FORTHOMME

For Canada:

L. D. WILGROSS

For the Grand-Duchy of Luxemburg:

J. STURM

For the Kingdom of the Netherlands:

A. B. SPEEKENBRINK

For the United Kingdom of Great

Britain and Northern Ireland:

T. M. SNOW

For the United States of America:

WINTHROP BROWN

For the Commonwealth of Australia:

HERBERT V. EVATT

New York 13/11/47

For the French Republic:

New-York le 13 novembre 1947

ANDRÉ PHILIP