EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

EIGHTY-FIRST CONGRESS

FIRST SESSION

ON

H. R. 1211

AN ACT TO EXTEND THE AUTHORITY OF THE PRESIDENT UNDER SECTION 350 OF THE TARIFF ACT OF 1930, AS AMENDED, AND FOR OTHER PURPOSES

PART 2

FEBRUARY 24, 25, 26, 28, MARCH 1, 2, 3, 4, 5, AND 8, 1949

Printed for the use of the Committee on Finance

UNITED STATES
GOVERNMENT PRINTING OFFICE
86697 WASHINGTON : 1949

COMMITTEE ON FINANCE

WALTER F. GEORGE, Georgia, *Chairman*

TOM CONNALLY, Texas	EUGENE D. MILLIKIN, Colorado
HARRY FLOOD BYRD, Virginia	ROBERT A. TAFT, Ohio
EDWIN C. JOHNSON, Colorado	HUGH BUTLER, Nebraska
SCOTT W. LUCAS, Illinois	OWEN BREWSTER, Maine
CLYDE R. HOEY, North Carolina	EDWARD MARTIN, Pennsylvania
J. HOWARD McGRATH, Rhode Island	JOHN J. WILLIAMS, Delaware

ELIZABETH B. SPRINGER, *Acting Clerk*

CONTENTS

EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT

THURSDAY, FEBRUARY 24, 1949

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 9:30 a. m., pursuant to adjournment, in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senators George (chairman), Byrd, Hoey, Millikin, Taft, Brewster, Martin and Williams.

The CHAIRMAN. The committee will be in order.

This hearing is on a continuation or the proposed extension of the reciprocal Trade Agreements Act, H. R. 1211.

Senator Malone, will you proceed?

STATEMENT OF HON. GEORGE W. MALONE, A UNITED STATES SENATOR FROM THE STATE OF NEVADA

Senator MALONE. Mr. Chairman, the people of this Nation do not realize the deadly serious long-range effect on the workers, farmers, merchants, manufacturers, and industralists of the permanent free trade plan of the economic one-worlders included in this three-phase program, of which the 1934 Trade Agreements Act is but one part.

In the first place, there is not now and there never has been a Reciprocal Trade Act. There is a 1934 Trade Agreements Act in which the words "reciprocal trade" do not occur. The act was never meant to be reciprocal, and certainly it does not operate that way. That is not the effect.

This three-phase free trade program will be deadly in its effect on the employment and economy of this Nation if finally adopted—it is the only real issue facing the Congress today.

There is no question of high or low import fees or tariffs to be discussed here. The question is whether the differential of the cost of producing an article in this country under our high-wage standard of living and producing the same article in a country having a low-wage standard of living should be represented by an import fee in order to bring such imports in under our level of costs.

The difference in production costs is mostly due to the difference in wage or labor cost, since our up-to-date machinery and technical know-how, including the assembly-line methods, are immediately available to these low-wage countries.

The three-part program currently advocated by the State Department is designed to undermine the basic economic structure of this country, with the one objective of dividing our markets and leveling

our living standard to the low-wage living standards of the Asiatic and European nations, and includes:

First: Appropriations to make up the "trade balance" deficits of the European nations in cash each year—currently labeled the Marshall plan—our chief export is cash.

Second: Extend the selective "free trade" principle adopted by the State Department through a 3-year extension of the 1934 Trade Agreements Act.

Third: Adoption of the International Trade Organization—58 nations with 58 votes—each with one vote will meet each year to distribute among themselves the remaining production and markets of the world.

I want to say at this point that I think it is impossible to discuss one of these three parts without including the other two, simply because one is dependent upon the other, and the ultimate objective of the State Department, the executive department of this Government, is to level our living standards with the rest of the world through this three-phase program. Of course, this is done with the announced objective of raising the standard of living of the remainder of the world by dividing our markets with them.

All this reminds me of someone trying to average the level of the water in a water glass and the city reservoir. You could empty your water glass into the reservoir without having very much effect on the height of the water in the reservoir.

Now to the adoption of this International Trade Organization, with 58 nations, each having one vote—the United States would have the same vote as Siam or Lithuania. They would meet each year with free trade the ultimate goal, and add up the remaining production and markets of the world and divide them eventually on the basis of population.

The first step of the three-part permanent program, that of making up the trade balance deficits of the European nations each year in cash—our chief export is cash—began rather modestly with scattered gift-loans to these nations, leading up to UNRRA, and later the gift-loan of $3,750,000,000 to England in 1946, and then to the $17,000,000,000 5-year program currently known as the Marshall plan, soon to be followed by the now-suggested global recovery program.

I mentioned in the debate last year on March 4 and 5 on the floor of the Senate exactly how this thing had developed to finally make up the trade balance deficits of the European nations, and it was admitted in the debate that that is what it was for. I mentioned at that time that soon there would be another suggestion which would not be the Marshall plan but would be simply a continuation of the program of which the Marshall plan was simply a part.

The second step was inaugurated through the 1934 Trade Agreements Act, under which the State Department has adopted the selective free-trade principle, and which is to be extended for 3 years at this session of Congress. The principle is later to be made premanent through the adoption of the International Trade Organization. Free trade has been sold to this country through the catch phrase "reciprocal trade." The phrase has no relation to the act, but it has never been possible to sell free trade direct to the workers of this Nation.

The phrase "reciprocal trade" does not occur in the 1934 Trade Agreements Act—the act is not reciprocal—but is simply a catch

phrase to sell free trade to the American people, cloaked in more involved and less understandable phraseology.

The third and final step of this very clever three-phase program to divide the markets and to distribute the wealth of this Nation throughout the world is the adoption of the presently proposed International Trade Organization, under which the selective free trade principles, currently adopted by the State Department under the 1934 Trade Agreements Acts, will be made permanent and become the settled policies of this Nation.

This three-phase free trade program will affect alike farming, manufacturing, mining, lumber, textiles, and labor, as such, most of all, since they are the first affected. All this must be considered together.

Group legislation is attracting the attention of the Senators and Congressmen while the economic rug is being pulled right out from under our feet through this three-phase free trade program.

Capital is fluid. It can be invested in the competitive countries where the lowering of the import fee places the industry, but American labor does not want to follow capital to the low-wage countries and does not want such low-wage labor coming here.

There are now nearly 4 million full-time idle men in this country, and more than 9½ million part-time unemployed, and it has just started. We may partially recover at the moment, but if this three-phase free trade program is adopted it will continue later in renewed force.

At this point I want to call attention to a dispatch appearing in the February 23 Daily Mirror. It says in that dispatch:

> Some estimates have 4 million unemployed now. Census figures reveal 9½ million working part time from a day to 4 days a week.

This is a special writer, and he says:

> I have been inquiring about the country, and I find jobs slackening even in the hypertension steel industry.

I simply want to emphasize at this point that if this free trade plan is to continue and the American worker is to be put in direct competition with the low-wage labor of the Asiatic and European nations and the South Seas, then there is nothing that can happen to us except a definite lowering of our high-wage standard of living.

It simply means that approximately 7 percent of the population of the world—140,000,000 people—is trying to raise the standards of living of the 93 percent—or more than 2,000,000,000 people—through a direct division of their jobs with them.

Only a very rich nation can stand up under a division of her markets.

I see no practical difference between importing goods produced by cheap labor and importing the cheap labor itself. As a matter of fact, unrestricted immigration is a part of the long-range plan of the economic one-world thinkers.

No one can be for free trade, in my opinion, and vote against unrestricted immigration from the low-wage countries because the effect is exactly the same in the last analysis.

Since the economy and currency exchange rates of all the 58 nations are in a continual state of flux, no fixed tariff can successfully represent this differential of cost over a period of time.

The solution can be found in a flexible import fee which is subject to adjustment when the economic factors change.

A tariff is a fixed tariff whether fixed by the Congress, by the Tariff Commission, or by the State Department under the 1934 Trade Agreements Act, except that the tariff fixed by the State Department is even more rigid because it is a treaty and cannot be changed for a definite length of time regardless of the changes in the economic factors affecting the differential of cost, and this differential of cost of production is mostly due to the standards of living.

Senator BREWSTER. Did you say it was a treaty?

Senator MALONE. I understood it is a treaty.

Senator BREWSTER. If it were, it would have to be approved by the Senate.

Senator MALONE. Does it not have to be approved by the Senate?

Senator BREWSTER. They proceed under the agreement theory of a majority.

Senator MALONE. I am speaking about the ITO.

The CHAIRMAN. We are speaking of all three together, but this is with reference to the ITO.

Senator BREWSTER. We do not know yet whether it is a treaty or agreement.

Senator TAFT. If it is a treaty, it involves the moral obligation to keep going for 3 years.

Senator MALONE. That would be the 1934 Trade Agreements Act, but the ITO is a treaty, as I understand it.

Senator BREWSTER. They have not made up their minds what they are going to call it, nor have we.

Senator MILLIKIN. They refuse to say when they are going to submit it and they refuse to say how they are going to submit it.

Senator MALONE. I will make a prediction to you that it will be submitted following the approval of the second year of the Marshall plan and the 5½ billion dollars that we are again going to give the European nations, and following the extension of the 1934 Trade Agreements Act. Then the ITO will be brought up to make free trade the permanent and fixed policy of this Nation. In other words, it will not come in now because they hope that we will not connect the three.

But I maintain that you cannot consider any one of these programs without discussing all three, because each is an integral part of a long-range plan, carefully designed to level the high-wage living standard of this country with the low-wage living standards of the Asiatic, European, and South Seas countries.

Gentlemen, this is not the first time that this suggestion has been made. Forty or fifty years ago the international bankers of Europe suggested this same thing, except they simply proposed a free-trade policy. They did not have the involved language and the three-phase part of it.

This proposal was made at the time that our Nation started to rise above the living standards of the world through the use of our import fees and protection. It was at that time that the international bankers began to try to divide our markets through the free-trade principle. It is simply a proposal to divide our markets.

The Trade Agreements Act was suggested by Mr. Hull, the then Secretary of State, after being worked out by his Department to supplant his direct suggestion of free trade. I have a high regard for the integrity of the former Secretary, but he made the mistake of

asking for free trade directly, and the people of the United States understood it and would not take it.

Now we have it bundled up in three parts, a three-phase program that is just as plain as the suggested free trade when considered together. But, they have been considered one at a time up to this time—as an immediate emergency—and rushed through without a full understanding of their collective effect. I feel very strongly on this subject. On page 10 of a reprint of my 1948 debates on the United States Senate floor, I said, in answering Mr. Lodge:

I thank the Senator from Massachusetts sincerely for his contribution. Now since he has raised the question, I refer him to the European recovery plan committee hearings held by the Senate Foreign Relations Committee, part 1, pages 116 and 117. There are two tables (and these can be easily checked), which are very interesting to me, since the Senator has brought up the fact that if we did take these minerals without pay it would further unbalance their trade balances.

I want to point out to the distinguished Senator from Massachusetts that it just happens—no doubt it is a coincidence—that the money which has been asked for under the bill, $6,800,000,000 for 15 months, corresponding exactly to the $5,300,000,000 for 12 months, adds up to the unfavorable trade balances for that period of the 16 Marshall plan nations.

In other words, the $6,800,000,000 asked for by the President for 15 months under the Marshall plan corresponds exactly in proportion to the $5,300,000,000 for 12 months so the trade balance shortage of the 16 countries from all trade sources in the world for the 12 months exactly balances by the same coincidence the amount of the loan or gift—I hope that no one is so naive as to believe that any of it will ever be repaid.

I will skip some of the debate now.

Senator LODGE. And the fact that the total amount requested by the Marshall plan is $6,800,000,000 is not a coincidence; it is deliberately arrived at. What we are trying to do is to bridge that gap in foreign exchange which has been caused in large part by the war. There is not any mystery about it. We have not uncovered any corpse here.

I simply want to point out that it was admitted in debate that what we were doing was making up the trade balance deficits of the 16 Marshall plan nations in cash.

Under the 1934 Trade Agreements Act, the State Department has adopted a selective free trade policy simply designed to divide our markets with those nations and the countries of the world, on the theory that the greater the division of the markets, the less their trade balance deficits will be.

They have adopted the free trade principle, and let me say that you do not have to remove the tariff or import fee entirely to have free trade on that article. All you have to do is to cut it down below the critical point where it makes up the difference between the cost of the manufacturing or producing the article here and the cost of producing it in a foreign country where our competition is located, and then you have effective free trade. Just as if you sawed 2 feet off the end of the Potomac River Bridge, you do not take much off the bridge, but you have no bridge left. That is exactly the way it works in the reduction of a tariff or import fee.

Senator MILLIKIN. I suggest to you that it is free trade only as far as we are concerned. We now have the equivalent of free trade, but no other country in the world has reduced its import restrictions to the point that we have. The others have made some concessions in the tariff part of the restriction, but the quotas and the import restrictions and the monetary restrictions are higher than ever, and it is a farce to talk about reciprocal trade. It is a farce to talk about free trade

in the sense that that is reciprocal. It is free trade only so far as our market is concerned.

Senator MALONE. I thank the Senator very much for his contribution. It is a one-way street; that is exactly what it is. A higher standard of living nation can do nothing but lose under a free trade agreement. It is just like taking the partition out of a sink, the water will find its level. It must find its level; there is no place else for it to go.

Sometimes people will say, "With our great knowledge of manufacturing and production and our efficient machinery, we need not fear low-cost labor." I want to point out to this committee that at this moment every piece of machinery that we make in the United States and every bit of technical knowledge that we have is available to every other country of the world. In my conversations with Nehru in New Delhi, India, and General Smuts in South Africa, where they have 500,000 tons of chromite and tremendous quantities of manganese that we need desperately, I said, "If I were not in the Senate and were 20 years younger, I would be out in the Asiatic and African countries looking for opportunities to bring American machinery and develop a business."

Then we have the proposal of the President to send technical knowledge all over the world. No government needs to send technical knowledge anyplace. Technical knowledge precedes investment; and if at any time technical men who know a particular business can find a place where the investments are safe, where they have integrity of investments, where all they take is the business risk, the technical men will go there. You cannot keep them away. If the business conditions are right they will go.

So if the United Nations and the Congress of the United States and the executive department would bend their efforts to establish this integrity of investment throughout the world, they need not fear but what the capital of this Nation and the technical knowledge will go there.

Senator BREWSTER. Would it not be very much more encouraging if we found one country in the world where they took that attitude, and we should give particular aid and facility to that country in order to set an example? Belgium, after the war, was one that most quickly reestablished itself, and created an atmosphere, apparently, somewhat congenial for private enterprise to succeed. Would that be within the purview of your view?

Senator MALONE. I thank the Senator for his contribution. It would. I meant major nations. There have been no major nations which have established the integrity of the investments. Belgium did recover for the very reason that you could invest money there and get the profits out of the country. It is impossible to get anything out of England, even interest on this money, to say nothing of the profit on investment capital. As a result of the nationalistic trend and the socialization of industry in England, even the Englishmen will not invest their money at home.

I pointed out, in this debate on the Senate floor to which I have already referred, that more money than they were asking for under the Marshall plan had been run underground in the 16 nations requesting the aid.

Senator BREWSTER. You would favor operations under the Export-Import Bank of that character where you loaned to individual industries in countries where there was some guarantee of recuperation, I gather, instead of the Government loans which encourage the socialization?

Senator MALONE. I would, Senator, and in that connection I would like to read a few paragraphs on page 3 of this same reprint, that is available to the Senators if they would like to see it.

Senator MILLIKIN. Might I make an observation, please, Senator Malone. Following up Senator Brewster's suggestion, is it not perfectly obvious that if investment was guaranteed protection, you would not have to make a Government loan? Private capital would go there.

Senator MALONE. Senator, I would like to go a step further. It is not necessary to guarantee an investment, but to simply guarantee against nationalization of the investment.

Senator MILLIKIN. I am not talking about that. I am talking about a background of circumstances and of law and of treatment of foreign money, whereby they could get fair play and not be threatened with expropriation and all of the other things that have happened to our capital in foreign countries.

Senator MALONE. That is exactly my point. The Congress of the United States has never yet made any definite move to nationalize industry. The minute that they made such a move in the Congress of the United States, in my opinion, we would be dependent entirely upon appropriations from the United States Treasury for new capital investment, the same as they are in England and the 16 Marshall plan countries today. Then when these countries could no longer secure such capital from their own treasuries, they fell back on gift loans from ours.

Now, I want to read just briefly here, because the subject is very vital to me, and I think is the guts of the entire work of Congress today.

All of the group legislation—the farmers' legislation, the labor legislation, the manufacturers' legislation, and the veterans' legislation—is very important to these groups and very important to the United States. But any mistake you make in such legislation, you can correct in the following Congress. But you cannot change this free-trade policy once you have a definite treaty with 58 nations. We have the only markets in the world today that you can sell 10 cents worth of chewing gum and get the money for it, unless we previously gift-loaned that government the money to buy it. It is our markets, then, that they are after. It is our markets that are going to be divided by these 58 nations with 58 votes, with Siam and Lithuania having one vote just the same as we do.

So they meet each year and divide the remaining production and the markets of the world, dividing it presumably on the basis of population. That is your ITO, and you cannot make anything else out of it.

They are holding the International Trade Treaty back now until you pass the Marshall plan again and extend the 1934 Trade Agreements Act for 3 years, and then we will face the treaty.

Senator MILLIKIN. If I may suggest, Senator, if you had the time, which you do not have, to stick around here, it will not be long until

you are told that you have nothing to fear about those things; that if we do not like what is going on we can withdraw, and if the others do not like what we are doing they can excommunicate us. And now, watch, within 24 hours you will hear that.

Senator MALONE. It is very good conversation, and we have lived off it now for 15 years, and I think the end of the honeymoon is right close.

Senator MILLIKIN. Get ready, Mr. Brown.

The CHAIRMAN. Let us proceed with the immediate thing.

Senator MALONE. Thank you, Senator Millikin, for the contribution.

I want to read a few paragraphs here, a condensation of the 2-day debate.

First, they said in the Marshall plan that we wanted to feed hungry people, to stop communism, and to rehabilitate industry. That is the reason that I made the trip through the Marshall plan countries late in 1947, and examined the coal mines and the steel mills of the Ruhr in Germany and other industries. I say it is impossible to consider the feeding of hungry people, the stopping of communism and the rehabilitation of industry as one subject. We only confuse ourselves, and as a result we mix our emotions with the facts and become unwilling victims of the greatest propaganda machine ever established in Washington.

Let us take them one at a time. Feeding emergency hungry people of Europe, or any other area, is a matter of charity, and must be so considered apart from other considerations.

Then I go to the stopping of communism, where I mention the Monroe Doctrine as stopping the spread of their systems of government into the Western Hemisphere by the empire-minded nations. We have had the Monroe Doctrine for 125 years. It has been very successful, and in that connection when we operate through the Monroe Doctrine or open door to the nations we name as important to our peace and safety, we are the judge when we go to war. We do not sign a treaty where you go to war because someone else says they are attacked.

I just want to call your attention to one thing while we are on that subject, that there has never been a time—I think I am safe in making this statement—in 2,000 years but what there was some kind of a war going on in Europe.

Now, let us get down to rehabilitating industry. That is the third thing. The rehabilitation of the industries of the 16 Marshall-plan countries, European countries, is entirely separate from feeding hungry people. It can be accomplished purely as a business transaction in the same manner as such plants were financed in this country by the Reconstruction Finance Corporation during the depression and during World War II.

A reasonable amount of money, say $1,000,000,000, could be appropriated and made available to the RFC or to the World Bank, for that specific purpose, simply providing that the RFC rules and regulations be applied to any foreign business loan. That would be a semi-private bank loaning to private industry. Their rules provide for an investigation of the feasibility of such an industry by an experienced investigator in the respective fields, with an estimate of cost, together with a list of the needed machinery and supplies. They further provide for a lien or mortgage to be taken on such equipment,

the stock or shares of the existing organization to be hypothecated as additional security for such loan, and then the signature of the applicant is required.

In other words, you loan money to rehabilitate the steel industry in Europe; I went through these steel industries with that particular object in view, since I still believed we were going to try to rehabilitate industry on some business basis. You would loan the money on the same basis as to an industry in Maine or in Nevada or in Ohio or Georgia. There should be no difference, no harsher terms and no milder terms. You will be very agreeably surprised, I also go on to say how small an amount of money you would loan on that basis.

That is not the basis on which they want the loan. I had a talk with Mr. Cripps, Sir Stafford Cripps, on the occasion of my visit to England; he said that they needed the Marshall plan money very badly. That was in November of 1947. I said, "I understand from my figures that you are 114 percent recovered on the industrial index at this time." He hesitated just a moment and said, "That is true." He said further, "We do not need the money in England so badly, but we need it to build new industries in Africa, in our possessions in Africa." And I said, "Mr. Cripps"—this is all in this debate, by the way—I said, "Mr. Cripps, do you mean for our Government to give your government money to build industries and transportation, and so forth, in Africa, in your possessions there, and that they would be clear of debt and your Government would own them?" And he said, "Yes."

Then I mentioned to him exactly the subject that you brought up, Senator Brewster. I said, "Why don't you establish the integrity of investments in Africa so that anyone investing money in taking only a business risk? In other words, investors from your neighbor countries will take the business risk whenever the judgment of the technicians and the men who have the money indicates that they have a chance to profit by the investment." He said that would not do at all, he just brushed it aside, because that is not what they want. They want us to give them the money so that the Government can nationalize the industry and the Government will own the industry.

Senator BREWSTER. I hoped that you would be able to comply with Senator Millikin's suggestion and remain here a little while, to have your education on the utter fallacy of all that you propose. I think that you will then be able to crusade much more effectively against what we believe to be unsound theories. We are going to have them expounded, just as soon as we dispense with the clothespins here, we are going into the upper realms.

The CHAIRMAN. May I suggest, Senator, that you may be a bit confusing to the committee by getting into the British loans and the British economy at this time, because we have this specific matter before us, and I would appreciate it if you would confine yourself to that. I understand your general observation that you think all of these things tie together, but I would like you to be a bit more specific and not go too far afield with all of these other matters that will be up on the floor of the Senate, undoubtedly, but do not come before this committee.

Senator MALONE. I was simply following the lead of the questions of the committee. I would be happy to do that, but at the same time I would like to impress upon the Chairman of this committee that

you cannot separate the three-phase "free trade" program. They are absolutely inseparable, with one objective.

Now, the argument is sometimes made that there should not be a tariff or an import fee on an article when we do not produce enough of it for the domestic market.

An import fee does not prevent imports, but does bring the product in on our level of costs—and keeps us in the business while we are assisting the lower-wage standard of living countries to raise their own.

Many of the strategic and critical minerals and materials are in that category, including copper, zinc and mercury. You have under consideration here a bill to extend the free trade on copper, and it is doing exactly the same thing to the small producer in this country, and it has driven the prospector out of the hills. There will be no more competition on copper if you are to continually extend the "free trade" interval.

Congress recognized this undesirable feature of a fixed tariff in 1930 by enacting section 336 establishing the flexible import fee procedure. Because this provision for various reasons was not utilized, I introduced a foreign trade authority bill last year which would have changed the Tariff Commission into a foreign trade authority with full authority to reflect correctly this differential of cost in much the same manner as the Interstate Commerce Commission fixes freight rates after full investigation and hearings.

Sometimes you will hear these theorists ask, "What do you offer if you do not want the free trade policy based on the 1934 Trade Agreements Act, miscalled reciprocal trade?" And I want to say again and emphasize that the phrase "reciprocal trade" has never occurred in any bill ever passed by the Congress of the United States. It is simply a catch word to sell free trade to the American people, and I think it has done a good job.

Under the proposal of the flexible import fee adjustment of rates, a definite market basis is established in the United States for the goods of all foreign nations, but they are the judges of their own living standards. However, under such a provision they would be encouraged to raise their wage living standards because they would immediately get credit for corresponding reduction in the tariff or import fee, and when their standards of living approximated our own, then the objective of free trade would be an automatic and immediate result. But in the meantime, our wage standard of living would be protected.

There is no argument against free trade when the living standards are approximately the same, but in the meantime our wage standard of living would be protected while we are assisting the lower-wage standard of living nations.

There can be no question of the objective of leveling the living standards of this country with the low-wage living standards of the world when the three-part "free trade" program is considered together.

I can understand anyone who advocates an import fee lower than the differential of cost between producing an article in this country and in a foreign country where our competition is located, provided he sincerely believes that our wage standard of living is higher than it should be and as a result should be leveled off, because that can be the only result when the goods produced by the lower-cost labor is imported into this country.

I want to call attention again to the stock answer that they have always had for this, that "Certainly with our methods of manufacture no low-cost labor can compete with us." But now everything we have, every bit of technical knowledge and all of our machinery, is available to every country in the world, and you put them on the assembly line and in a week they will do as much or more work than an American workman.

However, I cannot understand anyone who advocates that we maintain our high-wage living standard, and at the same time favors an import fee below such differential of cost, because the two simply are not compatible.

I will have more to say in debate on the Senate floor about our trade relations with the Asiatic, European, Middle East, South Seas, and Near East nations, including Africa. I have visited all of these nations and have discovered various ways utilized by them, including quotas, embargoes, currency manipulations, and other devices to nullify any concessions that they may have made through such treaties, while we feel morally bound to live up to such commitments.

You cannot successfully criticize these nations, in my opinion, because in most cases it is from sheer necessity that they take such action, and if we continue along the road we have started, we will soon reach the point where from sheer necessity we will have to abrogate the treaties through the use of such subterfuges.

These questions are not new. President Woodrow Wilson said, following the passage of the Underwood Tariff Act in 1913, that we should have a tariff board set up to advise the Congress in setting up a tariff bill. Soon after that date, the Tariff Commission was set up to so advise Congress.

It will also be remembered that the Underwood tariff bill lowering rates below that differential of cost basis allowed an influx of goods in this country following World War I, and that a special session of Congress had to be called to pass emergency rates preventing such importations, which were rendering idle thousands of workers in this country.

The conditions at this time are exactly the same as following World War I—the import fees are now below the critical point on many products and the dangerous unemployment cycle is under way as a direct result of the State Department's action through the three-phase program, as already pointed out.

The Daily Mirror yesterday carried a Washington story that "some estimates have 4,000,000 unemployed now" and that "census figures reveal 9,500,000 working part time, from 1 day to 4 days a week."

The three-phase free-trade program, including the long-range program of making up the trade balance deficits of the world currently known as the Marshall plan, the division of the markets under the selective free trade policy adopted by the State Department based on the 1934 Trade Agreements Act, and the International Trade Organization treaty which would make permanent the free-trade policy, is not new and will reestablish the unemployment conditions existing at the time it was necessary to overhaul the Underwood Tariff Act following World War I.

The same principle was advocated, using different language, 40 or 50 years ago by international European bankers about the time we

started to rise perceptibly above the nations of the world in our living standards through the use of the import-fee method.

Later the "free trade" policy was advocated directly without subterfuge of any kind by Secretary of State Hull. Now the same policies are advocated through this three-phase program, in more complicated language, designed to confuse the issue, but adds up simply to the same thing—"free trade."

The basic reason for recapturing control of our own import fees lies in the necessity for a high degree of flexibility, which is impossible if changes must be made through international agreement. The tariff structure of the United States has become rigid by reason of the many trade agreements executed by the State Department.

Until recently, this had not caused any particular embarrassment, because of the abnormal trade conditions of the past few years, war conditions, subsidies, and gift loans to foreign nations which can be used to purchase our own products. However, it is inevitable that future conditions will change with considerable rapidity, and to an hitherto unexperienced extent.

In that connection, I want to call attention to a dispatch yesterday in the Wall Street Journal, it says:

> Mounting surpluses from United States farms and factories are putting pressure on Congress to see that more European-aid dollars come back here to help relieve overproduction headaches. Many lawmakers are giving serious consideration to pleas that American goods should get first claim for purchase with the dollars given away or loaned abroad.

In that connection, I want to say that when I was examining the mines in the Ruhr in Germany, Mr. Collins, an Englishman, was superintendent of the mines. After the work of the day we were discussing the projected Marshall plan. After he had exhausted the arguments that the Marshall plan money should be given directly to the English Government, he just grinned at me and said, "You know that you are going to give us this money to save your own economy." He knew it then and I did not. I also had not realized at that time that the so-called Marshall plan was only one part of a three-phase "free trade" program. That was the first time I had heard it, but it happened about 40 times on my trip through France, England, and the Middle East. In other words, they all believe now and they will tell you that we are going to continue to give this money to Europe in some guise, to save our own economy.

My own idea of it is that if a man is going up a stepladder to jump off, he had better jump before he gets so high that it kills him, and a little leveling off before this time would not have hurt us any.

The basic reason, then, for recapturing control is the changing economic conditions in these countries—the economies of all of the countries are in a state of flux continually—and these conditions must be taken into account. They cannot be met by a treaty where, for 3 years, tariffs are fixed and then you have to serve certain notice, taking about 4 years altogether, and then probably be accused of bad faith.

We must be ready to meet such conditions. True flexibility of our import fees is essential to our national economic welfare.

Unless the Congress of the United States takes a firm hand in the game and reverses the trend of the three-phase program instituted by the State Department, under which they are directing both the do-

mestic and international series of programs, the producers and workers of this country are headed for a dangerously low standard of living, and an unemployment condition definitely worse than anything experienced since the early 1930's.

Mr. Chairman, I thank you for the opportunity of making this statement.

The CHAIRMAN. Thank you, Senator Malone.

Senator MALONE. I believe that you mentioned that this would be the point to mention the matter of the copper extension free trade.

Senator MARTIN. Mr. Chairman, before the Senator goes into that, may I ask a couple of questions?

You state there are about 4,000,000 unemployed in America. Do you know what type of work that is?

Senator MALONE. Senator, I do not have the exact figures, but in every paper you find notices that the automobile companies are laying off men, the railroads are laying off men, and the basic industries of the country are either cutting down the days of employment or laying off more men.

Senator MARTIN. I think you also stated that there are 9,000,000 partially unemployed. What do you mean by that?

Senator MALONE. I mean that their workweeks are cut down, where they normally would have a 5- or 5½-day week, they are cut down to as low as a 1-day week, or 1 to 4 days.

Senator MARTIN. In your survey, did you take into consideration the coal mines of the United States?

Senator MALONE. I believe they are included in the over-all figures, but the figures are growing so fast from day to day that it is impossible, almost, to keep in touch with them.

Now, then, mentioning one more thing in that connection that directly affects the coal mines, I want to call attention to another dispatch that the oil people are getting very worried, even as early as last fall the oil market was soft. The headline says, "Halloran wants crude oil imports cut—United States petroleum industry will be harmed unless this is done."

This indicates that there should be some authority given the State Department or some other department to determine when to cut the imports.

My whole point is, if there should be some kind of a flexible import fee arrangement so that the differential of cost could be met, it will take care of itself, without leaving the decision to the judgment of a bureau official.

This is what I mean and how it will affect the coal mines: I saw every oil well in the Middle East, in Iran and Iraq, down the Persian Gulf and through Saudi Arabia—the oil from that area under free trade, or if we should pass the Anglo-American oil treaty and throw the bars down, will come into this country at a cost that will cut the production of oil in this country and to make it unprofitable to explore for further domestic sources of oil.

The coal industry and the oil industry have come along about equally, that is to say, both fuels are used in the production of steam power all over the country, both are living at a high-wage standard of living, and both are producing plenty of coal and plenty of oil.

But if the Middle East oil is made available on a free-trade basis to this country, it could come in for $1.50 or $1.75 instead of $2.50 or

$3, and it could close every coal mine in West Virginia, Pennsylvania, Wyoming, and Utah that is furnishing coal for steam plants outside of their own States. That is one definite effect of this over-all free-trade policy.

Senator MARTIN. Senator Malone, you are one of the very outstanding engineers of America. Do you have an estimate as to how long our present reserves of coal would maintain our economy?

Senator MALONE. Well, the least that I have ever heard estimated was over 1,000 years.

Senator MARTIN. And do you think that the present plans of converting coal into gasoline and into oil and into commercail alcohol is practicable?

Senator MALONE. I have no doubt about it, Senator. Last year we had a National Resources Economic Committee, of which I was Chairman, set up through the Committee on Interior and Insular Affairs. We made a very careful investigation and brought the data on synthetic fuels up to date. Research is in the pilot plant stage, but I am told by scientists and engineers who are working on this problem that they are in about the same status now in the production of synthetic petroleum fuels from coal, as they were in the production of synthetic rubber at the beginning of World War II. In other words, if it becomes necessary and you gave them the necessary funds, they could produce all of the synthetic fuels needed from coal. There is, according to all of the best estimates, more than 1,000 years' supply of such fuels available from oil shale and coal.

Senator MARTIN. Mr. Chairman, I apologize for taking the time, and I would not have gone into this, but I think that we are fortunate to have in the Senate a man of the knowledge of Senator Malone; and yesterday I happened to be in my own State of Pennsylvania and I was alarmed when I learned that we have over 300,000 miners that are on part time. Some of them are down as low as one day, and a great number of them 2 days, and some fully unemployed. I apologize for taking the time of the committee.

The CHAIRMAN. Now, do you wish to address yourself to the copper?

Senator FLANDERS. Might I interrupt for a moment, Senator Malone and Mr. Chairman? I wonder if I might have 5 minutes between the general subject and copper, as I have some responsibilities elsewhere.

Senator MALONE. I will finish very quickly.

I feel very strongly on this subject which I have just outlined to you, Mr. Chairman, because I think that it is the one real basic subject faced by the Congress of the United States, that someone—I do not know how far back you have to go to find this someone—knows what the effect of this plan will be, and they do not all live in the United States, but part of them do.

Capital is fluid and can be invested anywhere in the world at a moment's notice. When a certain import fee is going to be adjusted downward to a point below that critical point of protection, then, the investments in that Nation become profitable, and people who know about those things and have money to invest do so. They are behind this free trade movement, and it is a much deeper long-range proposition than has ever been discussed on the floor of the Senate of the United States.

Senator BREWSTER. Mr. Chairman, I would like to examine this witness at somewhat more length on some of his comments on the oil situation. I hestitate, because Senator Flanders and Senator Smith are here, who are going to talk about a somewhat smaller item of clothespins; and I would like to have that opportunity, if the Senator could give us the time, and permit Senator Flanders to speak for 5 minutes and then leave, if that will be agreeable.

Senator MALONE. I will come back.

Senator BREWESTER. I do not want you to get away before I talk with you about this oil, but I hesitate to do it because I have asked these other people here, and that is the difficulty.

The CHAIRMAN. Senator Flanders, you say that you have a statement?

STATEMENT OF HON. RALPH E. FLANDERS, A UNITED STATES SENATOR FROM THE STATE OF VERMONT

Senator FLANDERS. I thank you for the privilege of speaking briefly. I am going to speak about 2½ minutes on the general subject of the reciprocal trade treaties, and 2½ minutes on clothespins. That is the relative importance, at this particular minute, of those two subjects.

The reciprocal trade treaties idea is one which we have to face. For generations, I suppose since we have been a Nation, we have exported more than we have imported.

Now, that was a perfectly logical thing to do when we were a debtor Nation. We worked part time for ourselves and part time to service and pay our debts.

We are now a creditor Nation, and we still work part time for ourselves, and part of the time for the people we send goods to for which we do not get paid.

Now, that is just plain silly. What we have to do is to find some way of getting paid by imports or gold for the things we ship abroad, because otherwise it is a dead loss to the Nation to ship out more than we get back. That applies just the same to foreign investment. There you have only a delayed result of not getting paid for what you do. You do not notice it until later. But foreign investment for which we do not get paid—and the only way we can get paid is by imports or by gold—is again just plain silly.

So we have to find some way to get paid for the stuff we ship out of this country. The only way I can see is by a carefully organized and administered rearrangement of our tariffs at rates which shall permit or encourage the payment for our exports in ways which are to the best advantage of the country.

It can be done theoretically, and I believe practically, in a way which raises our standard of living, if we swap the things which we make best for the other things which other people make best.

Now, we are on our way to clothespins. There is a good deal of trouble, friction, discontent, in the case of most industries, I imagine, for which arrangements have been made in the reciprocal trade treaties for reducing the duties involved. That is inevitable in the process, and I think that we do not have to formally serve notice. But informally, I would like to serve notice on Mr. Brown, who I

believe is here in the room somewhere, or anyone else connected with the State Department, that Senators and Representatives are going to police for their own constituents the details of this essential job, whose essentialness I have just described, and that again brings us to clothespins.

I want to say that we have two clothespin factories in Vermont. They make nothing else. One of them cans peas and corn in the summer, but we do not ask them to make enough on their peas and corn so that they can make clothespins as a public service.

Their wage rates run from 75 to 80 cents for women and from 90 cents to $1 an hour for men; and the Department of Commerce informs me that the Swedish competition, which is the serious competition, pays 62½ cents.

These manufacturers in Vermont—I do not know so much about those in other parts of the country—tell me that they have now lost the chain-store business. The chain stores buy their clothespins from Sweden. They have not lost the business sold to miscellaneous outlets through jobbers. Apparently the miscellaneous outlets have not yet discovered Swedish clothespins.

The folks up in my State are very much afraid of a further reduction, as requested by Sweden, and feel that they are suffering hardship under the present reduction, and wish me to present the case, and I am glad to do it.

I may say that the most efficient manufacturing plant I ever saw, of any sort, was a wooden-clothespin factory of the old-fashioned clothespin type up in Stacyville, Maine, and if the Vermont clothespin factories are as well managed as that old wooden-clothespin factory was, I want to say that they are doing very well, indeed, so far as skill and management are concerned.

That is my story, Mr. Chairman, on the reciprocal-trade agreements and on clothespins.

The CHAIRMAN. Thank you very much.

Senator MALONE. Is it permissible for a Senator to ask a question who is not a member of the committee?

The CHAIRMAN. We could allow it, Senator Malone. We are working under a good deal of pressure this morning. Is it just one question?

Senator MALONE. I would like to ask just one question of the Senator, if that is not one shining example of what Sweden can do better?

Senator FLANDERS. That is a real problem. I plan to visit those two clothespin factories and see if they have any right to survive. I mentioned the Maine clothespin factory because I am sure that that thing could not be done better elsewhere, but it was the old-fashioned wooden clothespin without any spring in it.

Senator MILLIKIN. May I make a very brief observation, which will save a question.

Out in our country, Senator, we produce sugar, and we produce oil, and we produce all of the livestock products, and we produce minerals and many other things, and we are producers of primary products. There is not a thing that we produce out there that cannot be produced cheaper someplace else. If we simply ran our tariff system on the basis of swapping that which the other fellow can do cheaper than we can do it, you have got about 17 States that will go back to the status of a howling wilderness.

Senator FLANDERS. May I, sir, make an observation, also, and not a question. That is that to my mind, sir, you live a in problem region, and you are completely dependent on the tariff out where you live. That is true to an extent that is not true in any other part of the country, and the State Department must recognize its responsibility for not depopulating the Rocky Mountain region.

Senator BREWSTER. I would like to ask the Senator this question: I appreciate what you say about the West, but up in Maine we have a few problems besides the clothespins, which we appreciate your solicitude for and we share it. But when we are sending 60 percent of the most modern textile machinery we manufacture to other parts of the world, do you have any doubt as to their capacity to use that intelligently and effectively in producing those things more advantageously and more cheaply than we do?

Senator FLANDERS. We had the experience of the Japanese textile industry up to prewar time.

Senator BREWSTER. It threatened us very severely.

Senator FLANDERS. Yes. And I could give General MacArthur some advice on that, so far as Japan is concerned, which is that they swap their textiles with the rice-growing countries of southern Indochina and work out a reciprocal trade arrangement there. But these arrangements that have to be made have to be made slowly and with caution, and with all of the conditions in mind, and I think that it is perfectly proper for us to serve notice on the State Department—as I say, they probably recognize it already—that we are not going to allow any such serious maladjustments that we cannot digest them as we go.

The main problem remains that we must not make stuff and give it away. That is what we are doing now.

Senator BREWSTER. Do you share with Senator Malone that we want to give our know-how and our technical developments to the rest of the world, if they will use those to put more cotton on the backs of Chinamen instead of inundating our markets here with their products? Is that not the theory?

Senator FLANDERS. I might say that Senator Malone did not tell the whole story. I do not want to ship that know-how and equipment without getting paid for it, and at present we have no way of getting paid for it. We are just fooling ourselves.

Senator BREWSTER. We could get paid completely for the textile machinery and the know-how and everything else, and it is when we get into other situations that we get a very serious unbalance. If we simply exported modern machinery and know-how, that is another thing.

Senator FLANDERS. But the total of exports so far exceeds, under ordinary conditions, the total of imports, that we fool ourselves when we think that we are getting paid for them, and that is a major problem.

Senator BREWSTER. Well, we imported $7,000,000,000 worth this last year, and that is more than our exports ever were prior to the war.

Senator FLANDERS. Maybe the thing has begun to balance out. I hope so.

Senator BREWSTER. You indicate the tariff is rather a local problem, as was said many years ago.

Senator FLANDERS. It is as far as clothespins are concerned.

Senator MARTIN. Senator Flanders, you are an expert in manufacturing, and is not the main difference of the cost of production in our country and in foreign countries the one of labor?

Senator FLANDERS. The differences are brought about by labor, equipment, and management, which may or may not balance each other out.

Senator MARTIN. But is not the main difference in cost the wage-scale difference between our country and foreign countries?

Senator FLANDERS. For instance, in an automobile plant as it was before the war, their scale was lower, but we made them cheaper.

Senator MARTIN. We had the mass production. But you take a specialized thing like clothespins, and is not the big difference in cost the matter of so much per hour for labor?

Senator FLANDERS. That is the situation so far as I know it. I have not visited the Swedish clothespin factories, but I assume that that is the difference.

Senator MARTIN. I am for reciprocity; I was brought up on that as a boy. That is one of the first things that I learned in political economy, and it is sound. But we have got to take care of our living standards in America, and that means full employment and gainful wages of our working people.

It seems to me that the real difference is the wage scale per hour.

Senator FLANDERS. Mr. Chairman, I might suggest on the major problem, that it seems to me that the proper line to be taken in negotiating these treaties is to have them so designed and so administered that the normal growth of our industry is directed toward those things we do best, rather than having it work destructively on existing elements of industry.

The CHAIRMAN. Thank you very much.

Senator MALONE. I would like to add just one statement as long as it was questioned whether I had gone far enough or not. Could I do that?

The CHAIRMAN. Yes; but would you let Mrs. Smith go first?

Senator MALONE. I will make this only a short statement, and then I am through.

There is no question but what we are making up our minds whether we are going to try to maintain our wage standard of living while we help foreign nations, or whether we want to level our living standards with such foreign nations and start at the bottom again with them. All you need is to have "free trade" and you will level our living standards with the foreign nations, and you have free trade when that differential of costs is not correctly represented by the import fee.

There is no question but what Senator Martin put his finger right on the subject. Labor is the important factor. These people in Europe are like us; they can do just as much work and, for the most part, will work harder; since all of the machinery is now available to them, the difference in the labor cost will represent the difference in the cost of the product. As Senator Brewster has said, the know-how and the machinery will go to the low-cost labor.

In the case of automobiles and the heavy machinery, we have had little competition, but right now they are coming into this country in increasing quantities and depressing the automobile market, all due to using our technical know-how, machinery, and assembly-line methods, combined with the European cheaper labor.

The differential of cost is due mostly to labor, and it is not recognized under the three-part free-trade program. The fact that the assembly-line methods have been taken to Europe by Mr. Ford is not recognized in this plan. These men are smart, and they will go where their money investment will be profitable. It is not the same name as the Ford plant here but it is the same organization and the same money. Every company in Detroit will be in the nations of Europe very soon, if this three-phase free-trade plan of the economic one-worlders is adopted.

The CHAIRMAN. Thank you.

STATEMENT OF HON. MARGARET CHASE SMITH, A UNITED STATES SENATOR FROM THE STATE OF MAINE

Senator SMITH of Maine. I appreciate your courtesy in permitting me to come in here before your committee, and I will confine my remarks to the minimum.

I am not directing my statement generally to the legislation before the committee, but taking the subject that Senator Flanders used, clothespins, if I may.

The clothespin industry of this country, as we have already heard, needs greater protection than it now has. Foreign producers manufacture clothespins at one-half to three-fourths of the American manufacturing costs. The differential is based particularly in labor costs. In other words, we cannot compete with the low labor wages of the foreign clothespins manufacturers.

The result is that foreign imports now constitute 20 percent of our American market, foreign imports of clothespins have multiplied 15 times since the prewar years. The American clothespin industry cannot stand this low-cost labor competition, and its existence is threatened in the near future simply because the American productive capacity alone exceeds the normal demand of the American market.

Because the great preponderance of clothespin manufacturing is in my own State of Maine, this problem is very close to me. If the American clothespin industry is wiped out because of inadequate protection against foreign competition, it means that many Americans will lose their only means of livelihood. The clothespin businesses are small, but clothespin workers and the small farmers especially in the State of Maine and the existence of several small communities will be threatened by economic obliteration. The issue is as simple as that.

I am not going to burden you with details. You have heard Senator Flanders, and I know that representatives of the clothespin industry have furnished the committee with detailed statistics and cost figures.

In the State of Maine, as you already heard, we are greatly concerned about the fish and the potato and woolen industry, and I am asking merely that you and your committee give as serious and sympathetic consideration to these industries as you may be able.

The CHAIRMAN. Thank you very much.

Senator MILLIKIN. Did I understand you to say that you will have data on the amount of domestic consumption from which the effect of these importations might be observed?

Senator SMITH of Maine. I will be glad to supply that.

In the case of clothespins, our production capacity, as I remember it, is about 6,000,000 gross, and we have manufactured nearly 5,000,000. In the last year we manufactured about 3,000,000 gross, and the import tariff has gone from 20 cents in 1930 to 10 cents now, and it is suggested lowering it even below that.

Senator MILLIKIN. There will not be any question but that the imports are responsible for this lessening of your own domestic production?

Senator SMITH of Maine. That is correct.

Senator BREWSTER. We use about 4,000,000 gross a year; is that right?

Senator SMITH of Maine. Between 4 and 5 million gross.

Senator BREWSTER. That is 600,000,000 spring clothespins, which is rather a large number.

Senator SMITH of Maine. In the State of Maine, it affects the little farmer who is entirely dependent upon that small business. They get their only cash from that little clothespin industry. They cut the wood for the little plants and it is very, very serious when we are trying hard to help the little industries in the Nation.

Senator MARTIN. Might I ask Senator Smith how many are employed directly and indirectly in the clothespin industry?

Senator SMITH of Maine. It will seem very small to you in Pennsylvania, I know.

Senator MARTIN. We have many of those, and one industry in a little village of 1,000, and I am very much interested in that picture.

Senator SMITH of Maine. In the State of Maine there are about 750 employed in the little plants, and about 850 farmers who are cutting the wood, and while that is only 1,600, it is a very, very large number in the small areas, however.

Senator MARTIN. I think that it is very important. I think that is the great necessity of the American economy. There are 3,600,000 industries in America that are owned by an average of two and a half people, and they employ two-thirds of the labor of America, and it is very important to sustain them.

I am very much in sympathy with them. That is the reason I asked you about it. We have it in Pennsylvania where the pulpwood, for example, means an existence to a very fine group of Pennsylvania farmers.

Senator BREWSTER. In the Scandinavian countries they are offering these clothespins here in our market at very much under, 25 or 30 percent under what we are able to produce them for. So there seems every reason to believe that they will soon take over the market.

Senator SMITH. There is no question about it.

Senator BREWSTER. Would the escape clause, which means rather extended proceedings before the Tariff Commission, afford the relief in this situation as against protection in advance?

Senator SMITH of Maine. I think that you are better able to answer it than I. I have not been able to follow it here so closely.

Senator BREWSTER. There are two theories. One is that you wait until the imports have arrived, and then you find out whether the industry is dead and conduct a postmortem, and the other is to determine in advance what is called the peril point, and try to prevent this or anticipate it.

Those are the two theories with which we are concerned here, and which are going to be one of the major issues we will face in this legislation.

The CHAIRMAN. Thank you very much, Senator Smith.

(The following brief was submitted for the record by Senator Smith):

BRIEF ON SPRING CLOTHESPINS

This brief is filed pursuant to the provisions of Executive Order 10004, for the purpose of furnishing certain information to be considered in connection with the proposed negotiations for reciprocal reduction of tariff and other trade barriers.

Commodity involved

The commodity involved in this brief is spring clothespins made of wood and equipped with metal coil springs to give them gripping action, which appears in paragraph No. 412 of the Tariff Act of 1930. Such commodity was listed for possible negotiation with Sweden and Denmark in the November 5, 1948, announcement of the Interdepartmental Trade Agreements Committee.

Interest of companies on whose behalf brief is filed

This brief is submitted on behalf of the following companies, which manufacture more than 95 percent of all wooden spring clothespins produced in the United States:

The Demeritt Co., Waterbury, Vt.
Diamond Match Co., B-F-D Division, New York, N. Y.
Forster Manufacturing Co., Inc., Farmington, Maine
Munising Wood Products Co., Inc., Chicago, Ill.
National Clothes Pin Co., Inc., Montpelier, Vt.
Penley Bros., West Paris, Maine
The Wallace Corp., St. Louis, Mo.

Recommendation

The above-listed manufacturers believe that an increase in the import duty on spring clothespins to a minimum of 20 cents per gross is essential to avoid serious injury to the domestic industry and recommend that the present duty be increased to such amount.

Summary of reasons

1. Productive capacity of domestic producers far exceeds the normal demand in the United States for spring clothespins.
2. American manufacturers are entirely dependent upon the domestic market for the distribution of their output.
3. Importers are offering foreign spring clothespins in the United States in quantities sufficient to satisfy the entire domestic market, at prices considerably lower than manufacturing costs alone in the United States.
4. Foreign spring clothespins are currently being imported in such quantities that they constitute more than 30 percent of all spring clothespins available on the American market, as compared with less than 2 percent during prewar years.
5. Unless the duty on spring clothespins is increased to an amount sufficient to enable domestic manufacturers to compete on a cost basis with foreign manufacturers, the quantity of foreign pins imported into the United States will soon increase to a point where domestic manufacturers will have to seriously curtail their production, or eliminate it entirely.
6. Curtailment of domestic production will affect the employment of approximately 750 employees currently engaged in the production of spring clothespins, with an average monthly pay roll of nearly $100,000.
7. More than 95 percent of domestic production is now confined to small towns, in most of which the manufacture of clothespins constitutes the major, if not the only, industry. Curtailment of such industry will create a serious unemployment problem in such towns.
8. A very large percentage of the wood used in the manufacture of spring clothespins is purchased from farmers, many of whom are entirely dependent upon the sale of such wood for their livelihoods. A reduction in domestic production of spring clothespins will seriously injure these farmers.
9. On the basis of prices currently being charged for imported spring clothespins, total gross receipts to foreign manufacturers would not exceed $2,000,000

annually. Should they supply the entire demand for such pins in the United States, the sharing of such a small volume of business can only result in endangering the very existence of the domestic industry, with attendant hardships on many hundreds of individuals now engaged directly or indirectly in the production of spring clothespins.

Discussion of reasons

1. It is estimated that the normal demand for spring clothespins in the United States is from 3,500,000 to 4,000,000 gross annually. Current average domestic production is at the rate of approximately 400,000 gross per month, or approximately 4,800,000 gross annually. For a variety of reasons current production is not up to capacity. Estimated productive capacity of the companies listed above is 480,000 gross per month or 5,760,000 gross annually. Such productive capacity is more than adequate to supply the normal demand in the United States without importation of any foreign spring clothespins. Moreover, should the demand increase, American producers can easily meet such demand in full by changing to a two-shift or even a three-shift basis.

2. Because of high costs of manufacturing in the United States, there is little or no market for American spring clothespins in foreign countries, so that domestic producers are entirely dependent on the domestic market. Total exports during 1941 were less than one-half of 1 percent of total domestic production. Exports in 1946 were practically nonexistent. In 1947 they were just over one-half of 1 percent of domestic production and for the first 8 months of 1948 exports were less than two-tenths of 1 percent of domestic production.

3. Offerings of foreign spring clothespins in the United States during 1948 have been at prices ranging from 47½ to 65 cents per gross delivered in New York, New Orleans, and San Francisco, which prices include the present import duty of 10 cents per gross. The following are typical examples of prices quoted for foreign spring clothespins:

(*a*) On April 19, 1948 Berg Hedstrom & Co., 630 Fifth Ave., New York 20, N. Y., offered packaged Swedish spring clothespins at a price of 45 cents per gross c. i. f. New York.

(*b*) On May 25, 1948, Porath & Magneheim, Inc., 95 Liberty Street, New York City, offered packaged Swedish spring clothespins delivered at New York, New Orleans, or San Francisco, at a price of 49 cents per gross for a minimum order of 5,000 gross; 48 cents for orders up to 10,000 gross; and 47½ cents for orders of more than 10,000 gross.

(*c*) On January 22, 1948, the Bolivar Trading Service, 1715 Chestnut Street, Philadelphia, offered Swedish spring clothespins at a price of 48.9 cents per gross, f. o. b. New York. On February 20, 1948, Europa Handles Co. of Copenhagen, Denmark, offered Swedish pins at a price of 55 cents per gross, c. i. f. New York.

(*d*) On October 5, 1948, Messrs. Scangothia Kommanditbolag Olsson & Co., Skeppsbohuset, Gothenburg, Sweden, offered spring clothespins at prices of 50½ cents per gross bulk, 51½ cents per gross in paper bags, and 53½ cents per gross in luxury cardboard boxes, all c. i. f. New York.

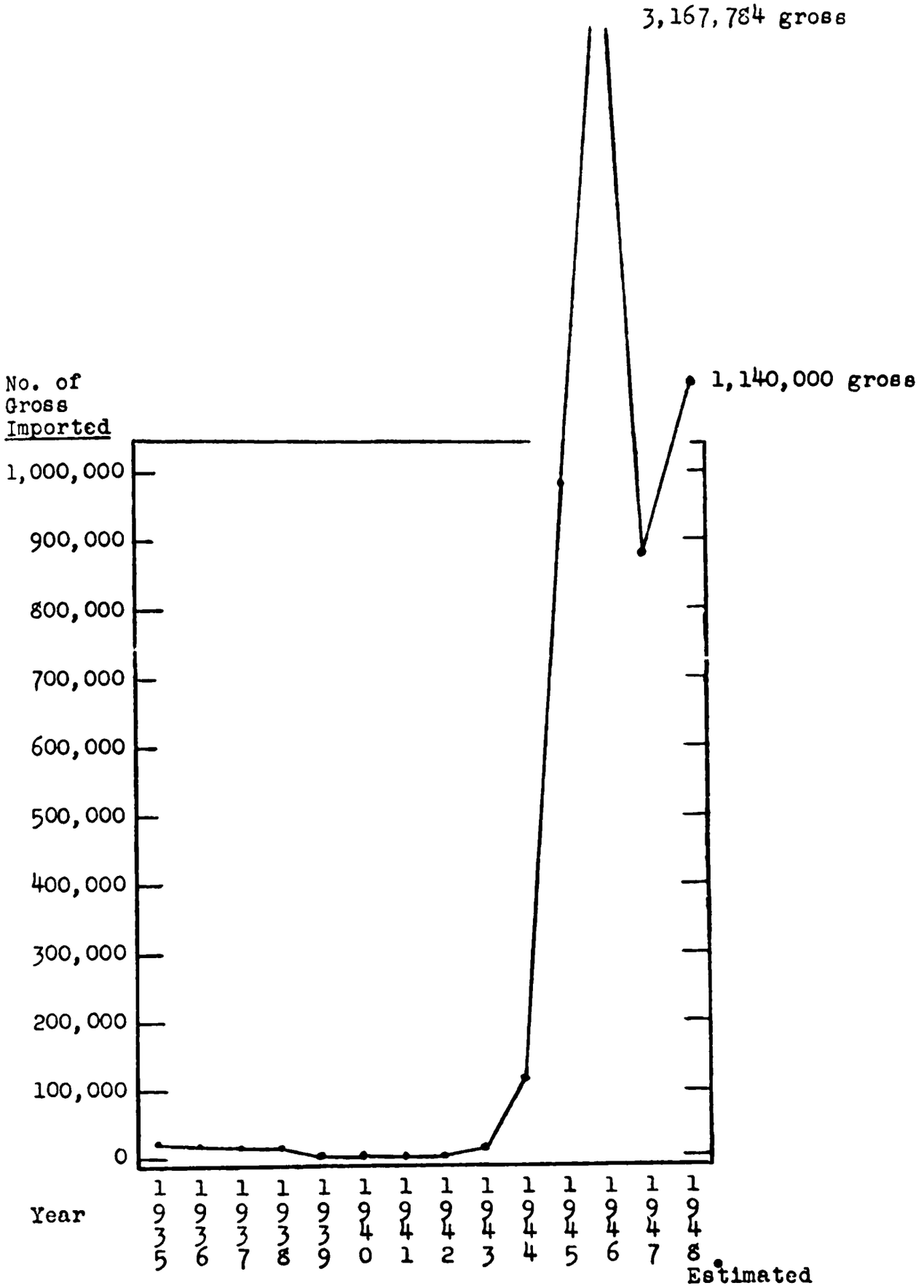
The above figures were taken from actual written quotations received from the companies named, which quotations are now on file in the office of the Clothespin Manufacturers of America, 1427 Eye Street NW., Washington, D. C.

Europa Handles Co., referred to above, has stated that it can supply 300,000 gross of Swedish spring clothespins per month. Scangothia has offered to deliver 50,000 to 75,000 gross a month. Porath & Magneheim, Inc., announced a capacity of 100,000 gross monthly. These three companies alone can bring over 5,500,000 gross a year into a market which can absorb only a total of 3,500,000 to 4,000,000 gross per year.

The above facts clearly demonstrate that importers are offering foreign spring clothespins in the United States in quantities sufficient to satisfy the entire domestic market at prices ranging from 47½ to 65 cents per gross, including duty. These prices are considerably lower than actual manufacturing costs alone in the United States, as shown by the attached tabulation, marked exhibit A.

Exhibit A shows that the average cost of manufacturing packaged spring clothespins as of August 1, 1948, was 67.68 cents per gross. To this cost must be added selling and administrative expenses, and freight costs, making a total average domestic cost of 86½ cents per gross. These figures include average freight costs throughout the United States. The actual freight cost from plants located in Maine to New York is approximately 5.5 cents per gross, making a total cost to Maine manufacturers of 83.2 cents per gross, delivered in New York.

It is apparent that spring clothespins which actually cost the manufacturer 83½ cents per gross cannot be sold in competition with foreign pins selling at prices ranging from 47½ to 65 cents per gross. Accordingly, with the present rate of duty, American manufacturers cannot compete with foreign manufacturers on a price basis.



4. As a direct result of the differential between prices charged for imported spring clothespins and those for domestic pins, imports of foreign pins have skyrocketed during the past few years. This fact is graphically illustrated above.

Attached hereto, and marked "Exhibit B." is a tabulation showing the total imports for the year 1931, annually from 1935 through 1947, and monthly from January 1 through August 31, 1948. It further shows domestic production and domestic shipments for most of such periods and contains a break-down of imports by principal countries.

It will be observed from such tabulation that imports during 1931, the year immediately following the enactment of the Tariff Act of 1930, were only 11,250 gross. In 1935, the year in which the Swedish trade agreement was adopted, the total imports were 25,053 gross. Subsequent to 1935 there was a gradual decline in the total quantity of spring clothespins imported until the early war years, during which practically no spring clothespins were imported.

During the year 1943, when the Mexican trade agreement was adopted, a total of 16,634 gross was imported. In the years following the adoption of such agreement, imports rose rapidly to a high of 3,167,784 gross in 1946.

Currently spring clothespins are being imported at a rate of approximately 95,000 gross per month. (Imports for the period January 1 through August 31, 1948, were 755,378 gross.) At this rate, the total imports for 1948 will be approximately 1,140,000 gross.

The abnormally large quantity of spring clothespins imported in 1946 was due primarily to the fact that no spring clothespins were produced in the United States during the 4-year period from 1942 through 1945, due to wartime restrictions on the use of wire, and the conversion of manufacturing facilities to the production of more essential commodities. American producers were unable, in view of the difficulties encountered in getting back into production after the war, to meet the abnormal demand caused by the 4 years of nonproduction. Foreign countries, particularly Mexico, from which country 1,718,281 gross were imported in 1946, were able to dump huge quantities of spring clothespins into the United States.

Since 1946 the demand, having been largely satiated by the tremendous influx of foreign pins in 1946, has decreased.

The tabulation further shows that imports from Mexico have declined rapidly since 1946, when they reached a high of 1,718,281 gross. In 1947 imports from Mexico were only 56,199 gross and during the 8-month period from January 1 through August 31, 1948, they have dropped to only 243 gross. Imports from Sweden, on the other hand, are currently increasing. Imports from Sweden in 1947 were 362,101 gross and during the 8-month period from January 1 through August 31, 1948, were 539,230 gross. At this rate, total imports from Sweden during 1948 will be approximately 809,000 gross, which will be the largest quantity ever imported from such country. It thus appears that Sweden is reaping the benefits from an agreement designed to encourage imports from Mexico.

Also attached hereto, and marked "Exhibit C," is a tabulation showing the percentages which imported and domestic spring clothespins bear to the total spring clothespins available in the United States market during various years from 1937 to the present.

This tabulation indicates that in 1937 the total imported and domestic pins available on the market amounted to 1,168,224 gross, of which less than 2 percent were imported. In 1946 imports represented 75 percent of the total quantity of pins available in this country. The year 1946, as previously indicated, was an abnormal year. However, imported spring clothespins still represent a very high percentage of the total quantity of pins available in this country. In 1947 imports represented 25 percent of the total. During the first 8 months of 1948, imported pins represented 30 percent of the total.

5. It is apparent from the foregoing that the present 10 cents per gross import duty is grossly inadequate to protect the American industry. If foreign manufacturers are permitted to continue shipping spring clothespins into the United States in unlimited quantities, and selling them at prices considerably lower than domestic costs, they will soon be able to take over the entire American market for spring clothespins. The inevitable result will be a serious curtailment or complete elimination of domestic production.

6. At the present time approximately 750 persons are employed in the manufacture of spring clothespins in the United States, at an average monthly pay roll of approximately $100,000. Any curtailment of domestic production will adversely affect the employment of these persons.

7. The above listed manufacturers, who produce more than 95 percent of the total domestic production, operate plants at the following locations:

Mattawamkeag, Maine
Phillips, Maine
South Portland, Maine
West Paris, Maine
Munising, Mich.
Montpelier, Vt.
Waterbury, Vt.
Glen Rock, Va.
Richwood, W. Va.

In most of the above towns the manufacture of clothespins constitutes the major if not the only, industry, and a large percentage of the employables in such towns are actively employed in the production of clothespins. Any reduction in the production of spring clothespins will create a very serious unemployment problem in such towns.

One very striking example of what can happen in such a small town when the principal industry in the town ceases operation is the case of Strong, Maine. In December 1947 the plant operated by the Forster Manufacturing Co. in Strong, which plant manufactured clothespins as well as a number of other wood products, burned down. At the time Strong had a population of approximately 800 individuals and a very large percentage of the employables worked in the Forster Manufacturing Co.'s plant. As a result of the fire, and the fact that the only other industry in the area could not afford employment to additional people, a large percentage of the population of Strong was forced to go on the relief rolls. At the present time the Forster Manufacturing Co. is constructing a new plant in Strong for the purpose of manufacturing clothespins, and it is anticipated that the situation there will be alleviated when construction has been completed and operations begin.

8. Most of the wood used in the manufacture of spring clothespins is purchased from farmers who have small wood lots. The balance is cut from stumpage owned or leased by the manufacturers or by contractors. The farmers, in most cases, are entirely dependent upon the sale of wood from their wood lots for their livelihoods. In a great many cases the only "hard money" these farmers see is the money they receive for such wood.

For example, in one New England State the average dollar value of wood purchased from farmers for production of clothespins is $506,000 annually. This amount is paid, as the purchase price of wood, to approximately 850 farmers. Obviously any curtailment of the production of spring clothespins will work an extreme hardship on these farmers. Moreover, 366 men are now actively employed by the clothespin manufacturers in such State alone for the purpose of cutting wood on stumpage owned or leased by the manufacturers. These men also will suffer through any reduction in the production of spring clothespins.

9. As heretofore noted, imported spring clothespins are currently being sold in the United States at prices ranging from 47½ to 65 cents per gross, which prices include the present import duty of 10 cents per gross. The net amount received by the foreign manufacturers is from 37½ to 55 cents per gross, less shipping costs, brokerage fees, etc. Even though the entire domestic market for spring clothespins were turned over to such foreign manufacturers, their gross receipts would not exceed $2,000,000 annually.

The interests of the above-listed manufacturers, all of whom are old well-established companies, and of the large number of employees, farmers, et al. who are dependent upon the domestic spring clothespin industry, should not be endangered merely to enable foreign manufacturers to share in such a small volume of business. The present rate of production of spring clothespins in the United States is more than sufficient to satisfy the entire domestic market, and any substantial reduction in such rate of production will necessarily create unemployment with its attendant problems. If foreign manufacturers are permitted to continue shipping spring clothespins to the United States, even at the present rate, a drastic cut in domestic production will soon be necessary.

CONCLUSION

In view of the existing differential between domestic manufacturing costs and the prices charged for foreign spring clothespins in the United States, the domestic industry cannot long survive without increased tariff protection. The 20 cents per gross rate established by the Tariff Act of 1930 is inadequate to afford such protection and early consideration should be given to an increase in this rate. Certainly the existing concessions to Mexico and Sweden should be eliminated at the earliest possible opportunity, and no further concessions should be granted.

RICHARD A. TILDEN,
Attorney for the Demeritt Co., Diamond Match Co., B-F-D Division, Forster Manufacturing Co., Inc., Munising Wood Products Co., Inc., National Clothes Pin Co., Inc., Penley Bros., the Wallace Corp.

STATE OF NEW YORK,
City of New York, ss:

Subscribed and sworn to before me this ——— day of December 1948.

———, *Notary Public.*

EXHIBIT A.—*Spring clothespins*

AVERAGE DOMESTIC COSTS PER GROSS

[Weighted on the basis of production]

Manufacturing costs	Includes both packaged and bulk			
	1937	1939	1946	1947
Materials	$0.1153	$0.1293	$0.2243	$0.2482
Labor	.0874	.0925	.1531	.1902
All other	.1114	.1162	.1057	.1656
Total manufacturing cost	.3141	.3380	.4831	.6040

Costs as of Aug. 1, 1948	Packaged	Bulk
Materials:		
Lumber	$0.1027	$0.1027
Wire	.0936	.0936
Other	.0046	.0046
Labor (both direct and indirect)	.2933	.1776
Display boxes and shipping containers	.0732	.0233
General factory overhead	.1094	.1094
	.6768	.5112
Selling and administrative expenses, exclusive of freight	.0997	.0997
	.7765	.6109
Freight	.0885	.0885
Total expenses	.8650	.6994

EXHIBIT B.—*Spring clothespins*

Year	Total imports, gross	Domestic production gross	Domestic shipments gross
1931 [1]	11,250	----------	----------
1935 [2]	25,053	----------	----------
1936	22,200	----------	----------
1937	16,600	1,151,624	1,100,000
1938	17,750	----------	1,200,000
1939	7,000	1,335,114	1,378,501
1940	50	----------	1,677,400
1941	0	2,013,859	2,180,082
1942	800	----------	1,058,246
1943 [3]	16,634	----------	(4)
1944	114,482	----------	(4)
1945	983,953	----------	238,683
1946	3,167,784	1,043,078	980,281
1947	876,299	2,577,249	2,690,774
1948—January	129,650	229,649	205,290
February	89,800	187,448	197,265
March	98,343	234,464	211,448
April	131,175	222,281	184,193
May	72,175	202,244	232,776
June	74,555	203,941	218,259
July	95,925	210,463	169,471
August	63,755	260,007	230,655
Total, 8 months 1948	755,378	1,750,497	1,649,357

[1] 1930 Tariff Act, 20 cents per gross.
[2] Swedish trade agreement, August 5, 1935, 15 cents per gross.
[3] Mexican trade agreement, January 30, 1943, 10 cents per gross.
[4] None.

EXHIBIT B.—*Spring clothespins*—Continued

IMPORTS BY PRINCIPAL COUNTRIES

[Number of gross]

Year	Sweden	Denmark	Mexico	All other	Total
1931 [1]	11,000	None	None	250	11,250
1935 [2]	25,020	None	None	33	25,053
1937	16,600	None	None	None	16,600
1939	6,500	500	None	None	7,000
1943 [3]	None	None	14,284	2,350	16,634
1944	None	None	102,636	11,846	114,482
1946	791,833	596,000	1,718,281	61,670	3,167,784
1947	362,101	406,100	56,199	51,899	876,299
1948 [4]	539,230	203,780	243	12,125	755,378

[1] 1930 Tariff Act, 20 cents per gross.
[2] Swedish trade agreement, August 5, 1935, 15 cents per gross.
[3] Mexican trade agreement, January 30, 1943, 10 cents per gross.
[4] Jan. 1, 1948, to Aug. 31, 1948.

EXHIBIT C.—*Spring clothespins*

Year	Total imports, gross	Domestic production, gross	Total imported and domestic, gross	Percent imported	Percent domestic
1937	16,600	1,151,624	1,168,224	1.4	98.6
1939	7,000	1,335,114	1,342,114	.5	99.5
1941	0	2,013,859	2,013,859	.0	100.0
1946	3,167,784	1,043,078	4,210,862	75.2	24.8
1947	876,299	2,577,249	3,453,548	25.4	74.6
1948 [1]	755,378	1,750,497	2,505,875	30.1	69.9

[1] For the period Jan. 1, 1948, to Aug. 31, 1948.

The CHAIRMAN. The next witness is Mr. Brown.

Senator BREWSTER. I wanted to ask Senator Malone about the oil situation.

The CHAIRMAN. Senator, we have been thoroughly over the oil matter, and we had a half day here on oil.

Senator BREWSTER. On the Middle East situation?

The CHAIRMAN. Yes; they covered all of that.

Senator BREWSTER. All right, I will not ask any further questions. I am sorry I have not been able to be here.

The CHAIRMAN. It is in the record, and you were not able to be here, but we had a large number of witnesses.

Senator BREWSTER. All right, sir.

The CHAIRMAN. Mr. Brown, you may come around, please, sir.

Let me make an inquiry: Has any study been made by the Tariff Commission of the imports of clothespins to which reference has been made?

Senator MARTIN. We have pending before us an application under the escape clause with respect to spring clothespins.

The CHAIRMAN. You have an application on that now?

Senator MARTIN. Yes. The Commission has not taken any decision as to whether a formal investigation will be made.

The CHAIRMAN. I thought you had perhaps made some recent study of the imports, but that perhaps answers the question that I had in mind, if there is a pending application.

Senator MARTIN. The Commission is also confronted with the question of a peril-point finding on clothespins in connection with negotiations.

Senator BREWSTER. If you do publish your findings on March 5, those will be included?

Senator MARTIN. Spring clothespins are included in the March 5 requirement.

The CHAIRMAN. All right, Mr. Brown, we will proceed.

Is there any statement you wish to make preliminary in regard to the particular subjects that have been discussed before the committee?

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE—Resumed

Mr. BROWN. No, sir.

The CHAIRMAN. I believe that you put in yesterday a statement regarding the imports of wool; did you not?

Mr. BROWN. I testified yesterday on the watch question that Senator Lucas had in mind.

The CHAIRMAN. Well, Senator Millikin, you wish to ask Mr. Brown questions, unless there is a preliminary statement that you wish to make, Mr. Brown.

Mr. BROWN. No, sir. I am appearing to answer the questions that members of the committee have in mind.

Senator MILLIKIN. Mr. Brown, yesterday you discussed the watch business. What is the State Department doing or contemplating doing about the fur business?

Mr. BROWN. We have no plans with respect to the fur business, as far as I know.

Senator MILLIKIN. The matter is not under study in the State Department?

Mr. BROWN. No, sir.

Senator MILLIKIN. You are not contemplating trying to reach any kind of agreement with countries that produce fur, and which are bringing into this country what appears to be excessive quantities?

Mr. BROWN. We have no request of any kind from the fur industry, and have not had for a long time, Senator.

Senator MILLIKIN. You would be receptive to representations from the fur industry?

Mr. BROWN. We always are.

Senator MILLIKIN. And if representations were made, and assuming that you felt favorably inclined, at least in a prima facie way, what would be your procedure in trying to relieve the situation?

Mr. BROWN. It would depend entirely on what furs they were. What the tariff situation was and whether they were in an agreement or not. What country was involved and what the facts of a particular situation were.

Senator MILLIKIN. Whatever the factual showings were, they would affect your viewpoint as to precise procedures, and possibly escapes

if there are escape provisions, and if there are not adequate escape provisions, as to what might be accomplished by negotiation?

Mr. BROWN. Yes. It would make a difference, for example, whether the fur was on the free list or not, as to what the legal authority of the President would be.

If it was on the free list, he would not be able even on recommendation of the Tariff Commission to change the duty. So the legal basis of authority differs with different facts.

Senator MILLIKIN. Has that free list become involved, or does anyone know what part of the fur items are on the free list?

Mr. MARTIN (Edwin G. Martin, Tariff Commission). All undressed furs are on the free list except silver fox. That included the platinum series. They are the only dutiable undressed furs.

Senator MILLIKIN. Has that free list been bound in any of your reciprocal trade agreements?

Mr. BROWN. I think some of them have.

Senator MILLIKIN. If they have been bound, and passing the question as to whether additional legislation is needed outside of the reciprocal trades system, then there are provisions in some of the reciprocal trade agreements for relief against the binding?

Mr. BROWN. Yes.

Senator MILLIKIN. Basically, there is a prohibition, is there not, against the President putting something in or taking something out of the free list; am I correct in that?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Even after you went through that first step, you would have a basic question of law, or a basic question as to whether the law should be amended?

Mr. BROWN. That is correct.

Senator MILLIKIN. And as to that you would have to determine, I assume, whether to recommend such a change according to all the facts of the case.

Mr. BROWN. Yes, the trade agreements organization or the departments concerned would hear the story and decide what kind of a recommendation should be made.

Senator MILLIKIN. To put it another way, so far as these free list items are concerned in the fur business, or in any other business, that would take a law of the Congress for it to be changed?

Mr. BROWN. Either a law of Congress or an agreement with the other country.

In the case of fox furs, at one time we did negotiate an agreement with the Canadians for a limitation of their imports to this country.

Senator MILLIKIN. Now, as to the fish industry, is the State Department doing anything about that?

Mr. BROWN. No, sir.

Senator MILLIKIN. Or carrying on any negotiations with anyone?

Mr. BROWN. No, sir.

Senator MILLIKIN. Any intention to do so at the present time?

Mr. BROWN. No, sir. I take it that you are referring to fillets. That is included in the "General Agreement on Tariffs and Trade," and the escape clause procedure is available if the industry cares to invoke it. They have not approached us on the subject.

Senator MILLIKIN. You have not been approached?

Mr. BROWN. Not recently, sir.

Senator MILLIKIN. Now, as to the oil situation, what are you doing about that, if anything?

Mr. BROWN. The same situation applies. We have not been asked to take any action, and the escape clause procedure is available if the industry chooses to invoke it.

Senator MILLIKIN. Are the principal exporting countries covered by trade agreements at the present time?

Mr. BROWN. It is my understanding that we have a trade agreement with Mexico and with Venezuela, and the escape clause is in the Mexican agreement, but not in the agreement with Venezuela.

If the escape clause were invoked under the Mexican agreement, that would involve generally the restoration of the tariff quota which was provided for in the Venezuelan agreement, so there would be quite a measure of relief which could be given under the Mexican escape clause.

Senator MILLIKIN. Would that have repercussions on the Venezuelan agreement?

Mr. BROWN. No, sir.

Senator MILLIKIN. That then would be a question of negotiating a change so far as the Venezuelan situation is concerned, assuming that it would be considered to be desirable?

Mr. BROWN. That is my understanding, sir.

Senator MILLIKIN. And have any representations been made to you by the oil industry?

Mr. BROWN. No, sir. We are aware, of course, of the statements made here, but they have not asked us specifically to do anything.

Senator MILLIKIN. What is the attitude of the State Department? A number of witnesses here have suggested quotas as the most practical problem, or the only method of solving their problem. What is the attitude of the State Department toward the imposition of new quotas?

Mr. BROWN. In general, we are not in favor of the imposition of quotas.

Senator MILLIKIN. Are there any circumstances under which you recommend the imposition of new quotas?

Mr. BROWN. I think we would have to see what the facts were.

Senator MILLIKIN. But your general policy is against them.

Mr. BROWN. Yes.

Senator MILLIKIN. Although your policy has been against them, you have made quota agreements as to watches, furs, and cotton?

Mr. BROWN. Cotton was not under a quota agreement.

Senator BREWSTER. How is that handled?

Mr. BROWN. The quota on cotton was imposed under section 22 of the Agricultural Adjustment Act.

Senator MILLIKIN. By negotiation you made an agreement with Canada on potatoes?

Mr. BROWN. Yes.

Senator MILLIKIN. And with Switzerland on watches, by negotiation?

Mr. BROWN. Yes.

Senator MILLIKIN. You or someone testified that there was a quota agreement on furs at one time?

Mr. BROWN. Yes.

Senator MILLIKIN. In all of those cases, the foreign country under the agreement was required to police the quota, in the case of watches, for example, from Switzerland, the point was that Switzerland was to see that the allocation was not exceeded.

Mr. BROWN. That was not true in the fox fur agreement.

Senator MILLIKIN. I am speaking of watches now.

Mr. BROWN. On watches, that is correct.

Senator MILLIKIN. On potatoes, Canada was to police the matter and see that the quota was adhered to?

Mr. BROWN. Senator, I think that that is correct, but I did not come prepared on every item that is involved in the trade agreement, so you must forgive me if I am not up on each one.

Senator BREWSTER. Would it be well to have copies of those in the record so that we can see precisely what it is?

Senator MILLIKIN. It would be a very good thing. What I am getting at is that it seems to me that the State Department has involved itself in quite an inconsistency of policy. On the one hand, they say that they oppose quotas, and on the other hand, they have promoted them, or put the burden on the other fellow of policing them, as opposed to the straight-out method of imposing them and doing our own policing.

What is your observation on that?

Mr. BROWN. My observation on that, in the first place, Senator, would be that under the conditions of today's complicated world it is impossible to be wholly consistent all of the time.

Senator MILLIKIN. That is the same thing as saying that you have not been consistent.

Mr. BROWN. I agree with that. We have not been wholly consistent.

Senator MILLIKIN. I was going on to say that my next line of inquiry will be the general trade agreements.

Senator BREWSTER. I wanted to be sure that we had copies of those agreements on quotas showing the precise extent and the way they are worked out, and have it in the record.

I think it would be helpful.

Senator MILLIKIN May the witness be requested to file that data?

The CHAIRMAN. If you have copies of any arrangements we would appreciate that.

Mr. BROWN. I have copies of the Swiss arrangement here.

The CHAIRMAN. Have you a copy of the Canadian agreement on potatoes?

Mr. BROWN. I do not think we have it here, but it can be easily supplied.

The CHAIRMAN. Is that a public document?

Mr. BROWN. Yes.

The CHAIRMAN. We will put all of those in the record, Mr. Brown.

(The documents are as follows:)

[*From the Department of State Bulletin, May 5, 1946*]

PROPOSED LIMITATION ON IMPORTATION OF SWISS WATCHES

EXCHANGE OF MEMORANDA BETWEEN UNITED STATES AND SWISS GOVERNMENTS

[Released to the press April 22]

Text of an exchange of memoranda between the United States and Switzerland concerning the exportation of watches and watch movements, watch parts, watchmaking machinery, and jewel bearings from Switzerland to the United States during the period January 1, 1946 to March 31, 1947

LEGATION OF SWITZERLAND

WASHINGTON 8, D. C.

April 22, 1946.

The Legation of Switzerland wishes to refer to recent conversations which have taken place between officials of the Governments of the United States and Switzerland in regard to a number of problems affecting the importation into the United States of Swiss watches, watch movements and parts, watchmaking machinery and jewel bearings.

Reference was made in these conversations to the fact that the United States watch manufacturing industry had during the last few years been converted largely to war production, and in contrast to many other industries similarly converted, the absence of American production had been largely compensated by imports of Swiss watches. The fact that as large an accumulated civilian demand did not exist in the case of watches as in other commodities, therefore, appeared likely to create certain difficulties for the American watch manufacturing industry during its period of reconversion to civilian production. It was also recognized that, by the terms of the trade agreement between the United States and Switzerland concluded in 1936,[1] no quantitative limitations were to be placed by the United States on the importation of watches and watch movements into the United States. It was further recognized that this provision of the trade agreement should not be allowed to operate in a manner to interfere with the reconversion of the United States watch-manufacturing industry. Taking into account such considerations as the foregoing, the Legation of Switzerland makes the declarations set forth below:

1. The Swiss Government is willing to effect a scheduling of the exports of watches and watch movements during the period of the reconversion of the United States watch manufacturing industry to civilian production (which is estimated for that purpose to end March 31, 1947) so that the volume of watches and watch movements reaching the United States shall not be such as to interfere with the ready marketing in the United States of the products of the American watch industry.

2. In order to facilitate such scheduling described in paragraph 1, above, the Swiss Government further declares itself prepared to:

(*a*) Initiate immediately such measures as are available to it to channel the shipment of watches and watch movements from Switzerland directly to the United States and to prevent their indirect shipment to the United States.

(*b*) Initiate immediately such measures as may be necessary to assure that direct shipments of watches and watch movements from Switzerland to the United States during 1946 shall not exceed the amount of direct exports in 1945. The limitation is to become effective retroactively to January 1, 1946. The volume of the direct shipments during the first 3 months of 1947 shall be calculated pro rata temporis.

3. The two governments will review the question of the volume of imports of Swiss watches and watch movements from time to time as the Government of the United States or the Swiss Government may deem necessary. If at any time during the reconversion period satisfactory evidence appears that the United States watch industry is finding difficulty in marketing its products, the Government of Switzerland declares itself prepared, in addition to the control of exports contemplated by paragraph 2 above, to effect a further reduction in the volume of exports of watches and watch movements from Switzerland to the United States to an extent to be agreed upon between the two governments.

Furthermore, the Swiss Government takes cognizance of the opinion expressed by officials of the Government of the United States that a joint review shall be made whenever the imports in any three-month period during 1946 exceed the

[1] Executive Agreement Series 90.

average direct imports during a similar period of the years 1942–45, inclusive, or whenever the volume of imports with respect to the several United States import classifications greatly deviates in any such period from the general pattern established during the last decade, and sees no objection to such procedure.

4. The Swiss Government will use its good offices to expedite the issuance of export permits by the Swiss Watch Chamber and other watch associations for watch parts and for jewel bearings to be used in the manufacture of watches in the United States, according to the autonomous internal regulations of the Swiss Government. The Swiss Government also will use its good offices to secure the issuance of export licenses to supply the American watch manufacturing industry with the watchmaking machinery which it is now endeavoring to purchase in Switzerland and will consider sympathetically the granting of export licenses for such further watchmaking machinery as United States watch manufacturers may desire to purchase in Switzerland. The Swiss Legation is looking forward to receiving from the Department of State the list of machines which the American watch manufacturing industry is now desirous of obtaining in Switzerland.

The foregoing declarations will be in effect until March 31, 1947.

AIDE-MÉMOIRE

APRIL 22, 1946.

The Government of the United States appreciates the declaration made by the Legation of Switzerland in its aide-mémoire of April 22, 1946, concerning the intentions of the Government of Switzerland with respect to the exportation of watches and watch movements, watch parts, watchmaking machinery and jewel bearings to the United States during the period from January 1, 1946, to March 31, 1947.

The Government of the United States believes that the adoption and execution of these measures by the Government of Switzerland will contribute materially to the solution of problems confronting the American watch industry in its period of reconversion to civilian production and will serve, at the same time, to assure the American watch importers and assemblers as well as the retail jewelers and consumers of an adequate supply of watches.

The Department of State, in this connection, will transmit to the Legation of Switzerland in the very near future the lists referred to in paragraph four of the aide-mémoire.

EVENTS UNDER SWISS WATCH AGREEMENT

DEPARTMENT OF STATE

For the press

APRIL 22, 1946.
No. 270

The following are the texts of an exchange of memoranda between the United States and Switzerland concerning the exportation of watches and watch movements, watch parts, watchmaking machinery and jewel bearings from Switzerland to the United States during the period January 1, 1946, to March 31, 1947:

LEGATION OF SWITZERLAND

WASHINGTON 8, D. C.

The Legation of Switzerland wishes to refer to recent conversations which have taken place between officials of the Governments of the United States and Switzerland in regard to a number of problems affecting the importation into the United States of Swiss watches, watch movements and parts, watchmaking machinery and jewel bearings.

Reference was made in these conversations to the fact that the United States watch manufacturing industry had during the last few years been converted largely to war production, and in contrast to many other industries similarly converted, the absence of American production had been largely compensated by imports of Swiss watches. The fact that as large an accumulated civilian demand did not exist in the case of watches as in other commodities, therefore, appeared likely to create certain difficulties for the American watch manufacturing industry during its period of reconversion to civilian production. It was also recognized that, by the terms of the Trade Agreement between the United States and Switzer-

land concluded in 1936, no quantitative limitations were to be placed by the United States on the importation of watches and watch movements into the United States. It was further recognized that this provision of the Trade Agreement should not be allowed to operate in a manner to interfere with the reconversion of the United States watch manufacturing industry. Taking into account such considerations as the foregoing, the Legation of Switzerland makes the declarations set forth below:

1. The Swiss Government is willing to effect a scheduling of the exports of watches and watch movements during the period of the reconversion of the United States watch manufacturing industry to civilian production (which is estimated for that purpose to end March 31, 1947) so that the volume of watches and watch movements reaching the United States shall not be such as to interfere with the ready marketing in the United States of the products of the American watch industry.

2. In order to facilitate such scheduling described in Paragraph 1, above, the Swiss Government further declares itself prepared to:

(*a*) Initiate immediately such measures as are available to it to channel the shipment of watches and watch movements from Switzerland directly to the United States and to prevent their indirect shipment to the United States.

(*b*) Initiate immediately such measures as may be necessary to assure that direct shipments of watches and watch movements from Switzerland to the United States during 1946 shall not exceed the amount of direct exports in 1945. The limitation is to become effective retroactively to January 1, 1946. The volume of the direct shipments during the first three months of 1947 shall be calculated pro rata temporis.

3. The two governments will review the question of the volume of imports of Swiss watches and watch movements from time to time as the Government of the United States or the Swiss Government may deem necessary. If at any time during the reconversion period satisfactory evidence appears that the United States watch industry is finding difficulty in marketing its products, the Government of Switzerland declares itself prepared, in addition to the control of exports contemplated by Paragraph 2 above, to effect a further reduction in the volume of exports of watches and watch movements from Switzerland to the United States to an extent to be agreed upon between the two governments.

Furthermore, the Swiss Government takes cognizance of the opinion expressed by officials of the Government of the United States that a joint review shall be made whenever the imports in any three-month period during 1946 exceed the average direct imports during a similar period of the years 1942 to 1945, inclusive, or whenever the volume of imports with respect to the several United States import classifications greatly deviates in any such period from the general pattern established during the last decade, and sees no objection to such procedure.

4. The Swiss Government will use its good offices to expedite the issuance of export permits by the Swiss Watch Chamber and other watch associations for watch parts and for jewel bearings to be used in the manufacture of watches in the United States, according to the autonomous internal regulations of the Swiss Government. The Swiss Government also will use its good offices to secure the issuance of export licenses to supply the American watch manufacturing industry with the watchmaking machinery which it is now endeavoring to purchase in Switzerland and will consider sympathetically the granting of export licenses for such further watchmaking machinery as United States watch manufacturers may desire to purchase in Switzerland. The Swiss Legation is looking forward to receiving from the Department of State the list of machines which the American watch manufacturing industry is now desirous of obtaining in Switzerland.

The foregoing declarations will be in effect until March 31, 1947.

AIDE-MEMOIRE

The Government of the United States appreciates the declaration made by the Legation of Switzerland in its aide-memoire of April 22, 1946 concerning the intentions of the Government of Switzerland with respect to the exportation of watches and watch movements, watch parts, watchmaking machinery and jewel bearings to the United States during the period from January 1, 1946, to March 31, 1947.

The Government of the United States believes that the adoption and execution of these measures by the Government of Switzerland will contribute materially to the solution of problems confronting the American watch industry in its period

of reconversion to civilian production and will serve, at the same time, to assure the American watch importers and assemblers as well as the retail jewelers and consumers of an adequate supply of watches.

The Department of State, in this connection, will transmit to the Legation of Switzerland in the very near future the lists referred to in paragraph four of the aide-memoire.

SWISS WATCHES

United States Imports of Swiss Watches and Watch Movements During the Operation of the Swiss Undertaking of April 1946 to Restrict Exports of Such Articles to the United States [1]

Following an exchange of memoranda between the United States and Switzerland on April 22, 1946, the Swiss Government undertook inter alia to limit shipments of watches and watch movements to the United States during 1946 to a number not in excess of that in 1945; and it undertook to limit shipments during the first 3 months of 1947 pro-rata on the same basis. The Swiss also undertook to initiate measures to channel shipments of Swiss watches and watch movements directly to the United States, with a view to discouraging shipments through third countries.

Official Swiss statistics report that exports of watches and watch movements to the United States in 1945 totaled 8,369,000 units. An estimated 650,000 of these, however, were not actually shipped to the United States; they were sent to United States Army Post Exchanges and Naval Ships' Stores located outside the United States. The Swiss quota undertaking did not apply to these latter shipments; it applied only to shipments made directly to the United States. Those direct shipments in 1945 amounted to approximately 7.7 million units, a number which fixed the basic quota established by the Swiss declaration of April 1946.

For the purpose of limiting direct shipments to the United States in conformity with its undertaking,, Switzerland issued export licenses during 1946 and the first quarter of 1947 at the rate of 645,540 units per month. That monthly rate corresponds to an annual rate of 7,746,480 units. Switzerland's export licenses applied only to shipments of timepieces which the Swiss classify as watches. They did not apply to certain other classes of timepieces, such as small-size alarm clocks, which United States import statistics classify as watches.

Swiss official statistics report that in 1946, 7,980,000 watches and watch movements were exported to the United States but this figure includes 574,000 units which were shipped to post exchanges and ships' stores outside the United States. Shipments made directly to the United States amounted to 7,405,000 units, or about 314,000 less than the number provided for in the quota agreement.

Swiss official statistics report that during the first 3 months of 1947 approximately 1,732,500 watches and watch movements were exported to the United States. This figure includes 88,400 units shipped to post exchanges and ships' stores outside the United States. Actual shipments to the United States during the first quarter of 1947 therefore amounted to about 1,644,000 units, which compares with a quota of 1,936,600 units provided for in the Swiss declaration of April 1946.

A foreign country's reported exports of any item to the United States in a given year seldom coincide precisely with United States reported imports for consumption of the item from that country in the same year. Frequently, as in the case of watches and watch movements, the disparities are marked. These disparities in statistics arise from four principal causes: (1) United States trade statistics ordinarily credit imports to their country of origin, irrespective of whether the articles are shipped to the United States directly or through third countries, whereas foreign countries report as exports to the United States only those articles which are shipped directly to the United States; (2) differences in classifications used by the United States and foreign countries; (3) the speeding up or slowing down in the rate of shipments during successive year ends; and (4) year-end variations in the stocks of imported merchandise in the custody of the Customs and in bonded warehouses. The disparity between the Swiss and United States statistics on watches and watch movements appears to arise principally from the first two causes outlined above. There was also a speeding up of shipments at the end of 1946 compared with the end of 1945. Airplane transportation was used

[1] This report is a supplement to the report entitled "Watches" which was released by the United States Tariff Commission on February 3, 1947. That report appeared as No. 20 in the Tariff Commission's War Changes in Industry Series. Copies may be obtained by purchase at 40 cents per copy from the Superintendent of Documents, United States Government Printing Office, Washington 25, D. C.

to a greater extent during 1946 than during 1945. No information is available on the comparative sizes of the 1945 and 1946 year-end stocks in custody of the Customs and bonded warehouses.

There are no official statistics showing separately the direct and indirect importations of Swiss watches and watch movements into the United States in 1945, the base year to which the quota applied. In 1946, however, a special compilation was made showing for the first time both the direct and indirect imports for consumption of watches and watch movements. These statistics, which were released by the Department of Commerce, report total imports in 1946 at 9,655,000 units, of which 1,200,000 were Swiss products imported through third countries, and 6,000 were of French origin. The imports reported as received directly from Switzerland therefore totaled 8,447,000 units, a figure which exceeds Switzerland's reported exports to the United States in 1946 by about 1 million units. United States direct imports of Swiss watches and watch movements in the first quarter of 1947 totaled 1,788,000 units, which exceeds the reported Swiss exports to the United States in that period by about 144,000 units. These disparities between Swiss statistics of exports to the United States and United States statistics of direct imports from Switzerland result principally from differences in the statistical classifications used by the two countries. United States and Swiss authorities define "watches" and "watch movements" quite differently.

United States import statistics distinguish between watches and clocks solely on the basis of width of pillar plate. Any movement whose pillar plate is less than 1.77 inches is classified as a watch movement; and any whose width is 1.77 inches or over is classified as a clock movement. On the basis of recent information obtained by the Tariff Commission from several informed sources, including importers of watches and clocks, and domestic manufacturers of clocks, it is estimated that from 75 to 80 percent of the reported imports of watch movements with pillar plates in excess of 1.5 inches which entered the United States during the 15-month period ending March 31, 1947, were for use in clocks, principally desk and alarm clocks. Virtually all the other imports in this size bracket were for pocket watches.

On the basis of the foregoing estimates, about 850,000 to 900,000 of the timepieces imported into the United States in 1946—and about 130,000 to 150,000 of those imported in the first quarter of 1947—which were classified in United States statistics as watches were classified by the Swiss as clocks and therefore not charged against the export quota they established on watches. These timepieces, although classified as watches for tariff purposes, entered domestic trade channels principally as desk and alarm clocks.

Switzerland's reported exports of clocks and clock movements to the United States in 1946 were valued at the equivalent of $930,000 (the number of units is not reported), whereas United States reported imports of Swiss clocks and clock movements in the same period—both direct and indirect shipments—were valued at $121,000 for 7,075 units. (Presumably direct shipments alone would have been somewhat lower than these figures indicate.) The disparity between the Swiss and United States reports of the value of the clock trade for the year 1946 was approximately $810,000, a sum which could account for the cost of over one-half million inexpensive Swiss alarm clocks. Such clocks are valued at about $1.15 each for the movements and 40 cents each for the cases.

Swiss exports of alarm clocks to the United States were not important prior to World War II. They averaged only $2,000 annually for the 5-year period, 1936–40.

If the estimated United States imports of timepieces which the Swiss classify as clock movements but which the United States authorities classify as watch movements were deducted from United States statistics of total imports of watch movements which came directly from Switzerland, the remainder would be between 7.56 and 7.60 million units for 1946, and between 1.64 and 1.66 for the first quarter of 1947. These totals are below the quantities provided for in the Swiss quota agreement (7.7 million for 1946 and 1.9 million for the first quarter of 1947); and they correspond closely with the Swiss official statistics of actual direct exports to the United States (7.4 million in 1946 and 1.6 million in the first quarter of 1947).

TABLE 1.—*Watch movements, cased and uncased—Swiss exports to the United States, 1945, 1946, and first quarter of 1947*

Item	Quantity (number of units)		
	1945	1946	January–March 1947
Total reported exports	8,369,200	7,979,700	1,732,500
Shipments to Army post exchanges and ships' stores outside of the United States	[1] 650,000	574,400	88,400
Direct shipments to the United States	[1] 7,719,200	7,405,300	1,644,100

[1] Estimated by Swiss authorities.

Source: Official Swiss statistics.

TABLE 2.—*Watch movements, cased and uncased—Direct Swiss shipments to the United States, 1945, and by months, 1946 and first quarter of 1947* [1]

Period	Quantity (number of units)	Period	Quantity (number of units)
1945 [2]	7,719,200	1946—November	651,200
1946—January	604,400	December	588,800
February	592,200		
March	693,200	Total, 1946	7,405,300
April [3]	630,000		
May	668,100	1947—January	535,300
June	591,100	February	577,600
July	666,700	March	531,200
August	449,000		
September	616,400	Total, January–March 1947	1,644,100
October	666,200		

[1] These statistics are based on official Swiss reports of exports to the United States exclusive of shipments to U. S. Army post exchanges and ships' stores outside of the United States.
[2] Calculated on the basis of Swiss official estimates of shipments of 650,000 units to post exchanges and ships' stores outside of the United States.
[3] The Swiss agreement to limit export to the United States was dated Apr. 22, 1946, but applied retroactively to shipments commencing Jan. 1, 1946.

Source: Official Swiss statistics.

TABLE 3.—*Swiss watch and other timepiece movements, cased and uncased—United States imports for consumption, 1945, 1946, and first quarter of 1947* [1]

Item	Quantity (number of units)		
	1945	1946	January–March 1947
Direct imports	(2)	8,447,100	1,788,300
Imports through third countries	(2)	1,202,200	40,900
Total imports	9,398,400	9,649,300	1,829,200

[1] Preliminary for all years.
[2] Not available.

Source: Compiled from official statistics of the U. S. Department of Commerce.

TABLE 4.—*Swiss watch and other timepiece movements, cased and uncased—United States imports for consumption, 1945, and by months, 1946 and first quarter of 1947* [1]

Period	Quantity (number of units)		
	From Switzerland	Through third countries	Total
1945	(2)	(2)	9,398,400
1946—January	689,300	193,400	882,700
February	729,800	160,500	890,300
March	677,300	137,100	814,400
April	871,400	220,600	1,092,000
May	661,900	65,000	726,900
June	628,500	54,700	683,200
July	612,900	36,000	648,900
August	732,800	88,400	821,200
September	227,800	44,000	271,800
October	819,300	104,000	923,300
November	809,000	49,100	858,100
December	987,100	49,400	1,036,500
Total, 1946 [3]	8,477,100	1,202,200	9,649,300
1947—January	574,200	15,200	589,400
February	641,000	12,200	653,200
March	573,100	13,500	586,600
Total, January–March 1947 [3]	1,788,300	40,900	1,829,200

[1] Preliminary for all years.
[2] Not available.
[3] Figures do not include 5,900 units for 1946 and 6,400 units for January–March 1947 imported from France and of French origin.

Source: Compiled from official statistics of the U. S. Department of Commerce.

TABLE 5.—*Clocks and clock movements—Swiss exports to United States, 1945, 1946, and first quarter of 1947*

Item	Value in United States dollars [1]		
	1945	1946	January–March 1947
Clocks and clock movements:			
Wall and table, except alarm	$294,400	$190,400	$32,500
Alarm	769,400	739,800	176,700
Total	1,063,800	930,200	209,200

[1] Not reported by number. Values in Swiss francs converted at 1 franc equals $0.2336.

Source: Official Swiss statistics.

TABLE 6.—*Clocks and clock movements—United States imports for consumption, 1945, 1946, and first quarter of 1947* [1]

Item	Quantity (number)			Value (dollars)		
	1945	1946	January–March 1947	1945	1946	January–March 1947
Clocks and clock movements (including watches and watch movements 1.77 inches wide or more) valued at—						
$5 each or less	14,100	3,700	240	31,700	12,300	400
Over $5 each	3,800	3,400	820	114,200	109,100	27,600
Total	17,900	7,100	1,060	145,900	121,400	28,000

[1] Preliminary for all years.

Source: Compiled from official statistics of the U. S. Department of Commerce.

EXECUTIVE AGREEMENT SERIES NO. 184

RECIPROCAL TRADE

SUPPLEMENTARY AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND CANADA AMENDING WITH REGARD TO FOX FURS AND SKINS THE AGREEMENT OF NOVEMBER 17, 1938

Signed at Washington December 30, 1939; proclaimed by the President of the United States December 30, 1939; effective provisionally January 1, 1940

[Publication 1540: The present number in the Executive Agreement Series may be filed in the Treaty Series after No. 958]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

WHEREAS it is provided in the Tariff Act of 1930 of the Congress of the United States of America, as amended by the Act of June 12, 1934, entitled "AN ACT To amend the Tariff Act of 1930" (48 Stat. 943), which amending Act was extended by Joint Resolution of Congress, approved March 1, 1937 (50 Stat. 24), as follows:

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

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

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

WHEREAS, pursuant to the said Tariff Act of 1930, as amended, a Trade Agreement was entered into between the United States of America and Canada on November 17, 1938,[1] which Agreement I did proclaim and make public by my proclamations of November 25, 1938, and June 17, 1939, and which Agreement is now in force between the two countries;

WHEREAS I, Franklin D. Roosevelt, President of the United States of America, have found as a fact that certain existing duties of the United States of America are unduly burdening and restricting the foreign trade of the United States of America and that the purpose declared in the said Tariff Act of 1930, as amended by the said Act of June 12, 1934, as extended by the said Joint Resolution of Congress, approved March 1, 1937, will be promoted by a trade agreement to

[1] Executive Agreement Series No. 149.

supplement and amend the Trade Agreement entered into between the United States of America and Canada on November 17, 1938;

WHEREAS, reasonable public notice of the intention to negotiate such supplementary trade agreement was given and the views presented by persons interested in the negotiation of such agreement were received and considered;

WHEREAS, after seeking and obtaining information and advice with respect thereto from the United States Tariff Commission, the Departments of State, Agriculture, and Commerce, and from other sources, I entered into a Trade Agreement on December 30, 1939, through my duly empowered Plenipotentiary, with His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of Canada, through his duly empowered Plenipotentiary, to supplement and amend the Trade Agreement entered into between the United States of America and Canada on November 17, 1938, which supplementary Agreement is in words and figures as follows:

The President of the United States of America and His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of Canada;

Considering the reciprocal concessions and advantages for the promotion of trade provided for in the existing trade agreement between the United States of America and Canada;

Taking cognizance of the emergency which has arisen with respect to the marketing of silver or black fox furs and skins;

Desiring to promote the purposes of the existing trade agreement between the United States of America and Canada by providing measures to assist in the orderly marketing of these products;

Have resolved to conclude an agreement to supplement and amend the trade agreement entered into between the United States of America and Canada on November 17, 1938, and have for this purpose, through their respective Plenipotentiaries, agreed on the following Articles:

ARTICLE I

During the effectiveness of this Agreement, item 1519 (c) of Schedule II of the trade agreement entered into between the United States of America and Canada on November 17, 1938, shall be suspended, and in lieu thereof the following item shall be substituted:

United States Tariff Act of 1930 Paragraph	Description of Article	Rate of duty
1519 (c)	Silver or black fox furs or skins, dressed or undressed, not specially provided for	35% ad val.

ARTICLE II

1. The total aggregate quantity of silver or black fox furs and skins, parts thereof, and articles made wholly or in chief value of any of the foregoing, whether or not manufactured in any manner or to any extent, and silver or black foxes which may be entered, or withdrawn from warehouse, for consumption in the United States of America in any twelve-month period commencing on December 1 in the year 1940 or any subsequent year, shall be 100,000 units. For the period from January 1, 1940 to November 30, 1940, inclusive, the total aggregate quantity of such furs and skins, parts, articles, and foxes which may be entered, or withdrawn from warehouse, for consumption shall be 100,000 units, less the number of silver or black fox furs and skins (not including parts) and silver or black foxes entered, or withdrawn from warehouse, for consumption during the month of December 1939, as determined and made public by the Secretary of the Treasury of the United States of America. For the purposes of this Article, a unit shall be a whole silver or black fox fur or skin or any separated part thereof or any article made wholly or in chief value of one of the foregoing, or a silver or black fox; and any article made wholly or in chief value of two or more of the aforesaid furs, skins, or parts thereof shall be considered as consisting of the total number of such units in such article.

2. In accordance with the principles set forth in Article III of the trade agreement entered into between the United States of America and Canada on November

17, 1938, a share of the total quantity of imports provided for in paragraph 1 of this Article shall be allocated to Canada equivalent to the proportion of the total imports for consumption into the United States of America of silver or black fox furs and skins which was supplied by Canada during the period from January 1, 1939 to November 30, 1939, inclusive, and shares to individual countries other than Canada may be allocated on the basis of the proportion of the total imports of such furs and skins supplied by such countries during the same period, account being taken in so far as practicable of any special factors which may have affected or may be affecting the trade in such articles. Accordingly, of the total number of units which may be entered, or withdrawn from warehouse, for consumption in the United States of America during any quota period, no more than 58,300 units shall be imported from Canada, nor more than 41,700 units from other foreign countries: *Provided*, That for the quota period from January 1, 1940 to November 30, 1940, inclusive, there shall be deducted from such specified quantities, respectively, the number of silver or black fox furs and skins (not including parts) and silver or black foxes imported from Canada, and from other foreign countries, which were entered, or withdrawn from warehouse, for consumption during December 1939, as determined and made public by the Secretary of the Treasury of the United States of America; *Provided further*, That no more than 25 per centum of any quantity entitled to entry during any quota period may be entered, or withdrawn from warehouse, for consumption during any single month; and *Provided further*, That the President of the United States of America may by proclamation allocate to individual countries other than Canada shares of such total number of units on the basis set forth above.

It is agreed that, if after consultation with the Government of the United States of America the Government of Canada so requests, the President of the United States of America shall proclaim that on and after the date fixed in such proclamation no articles imported from Canada and subject to the quota herein provided for shall be permitted to be entered, or withdrawn from warehouse, for consumption unless such articles are accompanied by official certificates of the Government of Canada stating them to be of Canadian origin.

3. The following shall not be subject to or affect any quota limitations provided for in this Article:

(a) articles of wearing apparel imported by returning residents or other persons arriving in the United States of America for their personal use and not intended for sale;

(b) articles admitted to entry under paragraph 1615 of the Tariff Act of 1930, as amended.

4. The Government of the United States of America reserves the right to terminate paragraphs 1 and 2 of this Article and to substitute therefor an autonomous quota regime. Should the Government of the United States of America avail itself of this right, it agrees to allocate to Canada the same share of the total quantity permitted to be entered, or withdrawn from warehouse, for consumption as is provided in paragraph 2, and it likewise agrees that the total quantity permitted to be entered, or withdrawn from warehouse, for consumption in any twelve-month period shall not be less than the quantity provided for in paragraph 1 of this Article.

ARTICLE III

1. The present Agreement shall be proclaimed by the President of the United States of America and shall be ratified by His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of Canada. It shall enter definitely into force on the day following the exchange of the Proclamation and the instrument of ratification, which shall take place at Washington as soon as possible.

2. Pending the definitive coming into force of this Agreement, it shall enter provisionally into force on January 1, 1940.

3. So long as the present Agreement remains in force it shall constitute an integral part of the trade agreement entered into between the United States of America and Canada on November 17, 1938, and shall be subject to termination as a part of that Agreement.

4. Should it appear to either the Government of the United States of America or the Government of Canada that the emergency conditions with respect to the marketing of silver or black fox furs and skins which have given rise to the conclusion of this Agreement have ceased to exist or have become substantially modified, that Government may, after consultation with the other Government, terminate the present Agreement on 90 days' written notice. Moreover, the present Agreement may be terminated at any time by agreement between the Governments of the two countries.

5. Should the present Agreement be terminated in accordance with the provisions of paragraph 4 of this Article, the provisions of item 1519 (c) of Schedule II of the trade agreement entered into between the United States of America and Canada on November 17, 1938, which have been suspended by this Agreement, shall thereupon automatically reenter into force.

In witness whereof the respective Plenipotentiaries have signed this Agreement and have affixed their seals hereto.

Done in duplicate, at the city of Washington, this thirtieth day of December, 1939.

For the President of the United States of America:

CORDELL HULL [SEAL]

Secretary of State
of the United States of America

For His Majesty, in respect of Canada:

LORING C. CHRISTIE [SEAL]

Envoy Extraordinary and Minister
Plenipotentiary to the United
States of America

WHEREAS, such modifications of existing duties and such additional import restrictions as are set forth and provided for in the said supplementary Agreement are required and appropriate to carry out the said supplementary Agreement;

WHEREAS, it is provided in Article III of the said supplementary Agreement that it shall be proclaimed by the President of the United States of America and shall be ratified by His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of Canada, and that it shall enter definitively into force on the day following the exchange of the Proclamation and the instrument of ratification;

AND WHEREAS, it is further provided in Article III of the said supplementary Agreement that, pending the definitive coming into force of the Agreement, it shall enter provisionally into force on January 1, 1940;

NOW THEREFORE, be it known that I, Franklin D. Roosevelt, President of the United States of America, acting under the authority conferred by the said Tariff Act of 1930, as amended by the said Act of June 12, 1934, as extended by the said Joint Resolution of March 1, 1937, do hereby proclaim the said supplementary Agreement to the end that the same and every part thereof may be observed and fulfilled with good faith by the United States of American and the citizens thereof, provisionally on and after January 1, 1940, pending the definitive coming into force of the Agreement, and definitively on and from the day following the exchange of this my proclamation for the ratification of His Majesty in respect of Canada, as provided for in Article III of the said supplementary Agreement.

PURSUANT to the proviso in Section 350 (a) (2) of the said Tariff Act of 1930, as amended by the said Act of June 12, 1934, I shall from time to time notify the Secretary of the Treasury of the countries with respect to which application of the duties and other import restrictions herein proclaimed is to be suspended.

IN TESTIMNY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this thirtieth day of December in the year of our Lord one thousand nine hundred and thirty-nine and of the Independence of the United States of America the one hundred and sixty-fourth.

[SEAL] FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.

EXECUTIVE AGREEMENT SERIES 216

RECIPROCAL TRADE

SUPPLEMENTARY AGREEMENT, BETWEEN THE UNITED STATES OF AMERICA AND CANADA, AMENDING WITH REGARD TO FOX FURS AND SKINS THE AGREEMENT OF NOVEMBER 17, 1938

Signed at Washington and New York December 13, 1940; proclaimed by the President of the United States December 18, 1940; ratified by His Majesty in respect of Canada June 14, 1941; proclamation and ratification exchanged at

Washington August 13, 1941; supplementary proclamation by the President of the United States August 21, 1941; effective provisionally December 20, 1940; definitively August 14, 1941

[Department of State Publication 1663]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS it is provided in the Tariff Act of 1930 of the United States of America, as amended by the Act of June 12, 1934, entitled "AN ACT To amend the Tariff Act of 1930" (48 Stat. 943), which amending Act was extended by Joint Resolutions approved March 1, 1937 (50 Stat. 24), and April 12, 1940 (Pub. Res. No. 61, 76th Cong.), as follows:

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

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

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

WHEREAS, pursuant to the said Tariff Act of 1930, as amended, a Trade Agreement was entered into between the United States of America and Canada on November 17, 1938,[1] which Agreement I did proclaim and make public by my proclamations of November 25, 1938 and June 17, 1939, and which Agreement is now in force between the two countries;

WHEREAS, pursuant to the said Tariff Act of 1930, as amended, I did proclaim and make public on December 30, 1939, a Trade Agreement between the United States of America and Canada,[2] which was entered into on the same day, to supplement and amend the said Trade Agreement of November 17, 1938 between the two countries;

WHEREAS I, Franklin D. Roosevelt, President of the United States of America, have found as a fact that certain existing import restrictions of the United States of America are undluy burdening and restricting the foreign trade of the United States of America and that the purpose declared in the above-quoted provisions of the Tariff Act of 1930, as amended, will be promoted by a trade agreement to

[1] [Executive Agreement Series 149; 53 Stat. 2348.]
[2] [Executive Agreement Series 184; 54 Stat. 2413.]

replace the supplementary Trade Agreement entered into between the United States of America and Canada on December 30, 1939;

WHEREAS, reasonable public notice of the intention to negotiate such an agreement was given and the views presented by persons interested in the negotiation of such agreement were received and considered;

WHEREAS, after seeking and obtaining information and advice with respect thereto from the United States Tariff Commission, the Departments of State, Agriculture, and Commerce, and from other sources, I entered into a Trade Agreement on December 13, 1940, through my duly empowered Plenipotentiary, with His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of Canada, through his duly empowered Plenipotentiary, to replace the supplementary Trade Agreement entered into between the United States of America and Canada on December 30, 1939 which Agreement of December 13, 1940, is in words and figures as follows:

The President of the United States of America and His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of Canada:

Considering the reciprocal concessions and advantages for the promotion of trade provided for in the existing trade agreement entered into between the United States of America and Canada on November 17, 1938;

Taking cognizance of the emergency which exists with respect to the marketing of silver or black fox furs and skins;

Desiring to promote the purposes of the existing trade agreement between the United States of America and Canada by providing measures to assist in the orderly marketing of these products;

Recognizing the desirability, as a result of experinece in the administration of the supplementary trade agreement entered into between the two countries on December 30, 1939, of making certain changes in the quota provisions of the said supplementary agreement;

Have resolved to conclude an agreement to replace the supplementary trade agreement entered into between the United States of America and Canada on December 30, 1939, and have for this purpose, through their respective Plenipotentiaries, agreed on the following Articles:

ARTICLE I

During the effectiveness of this Agreement, item 1519 (c) of Schedule II of the trade agreement entered into between the United States of America and Canada on November 17, 1938, shall be suspended, and in lieu thereof the following item shall be substituted:

United States Tariff Act of 1930 Paragraph	*Description of Article*	*Rate of Duty*
1519 (c)	Silver or black fox furs or skins, dressed or undressed, not specially provided for	35% ad val.

ARTICLE II

The following provisions are agreed upon with respect to the importation into the United States of America of silver or black foxes valued at less than $250 each and whole silver or black fox furs and skins (with or without paws, tails, or heads):

(1) The total quantity of such articles which may be entered, or withdrawn from warehouse, for consumption in any twelve-month period commencing on December 1 in the year 1941 or any subsequent year shall be 100,000. For the period December 20, 1940, to November 30, 1941, inclusive, the total quantity of such articles which may be entered, or withdrawn from warehouse, for consumption shall be 100,000 less the number of such articles entered, or withdrawn from warehouse, for consumption during the period December 1 to December 19, 1940, as determined and made public by the Secretary of the Treasury of the United States.

(2) A share in the total quantity provided for in paragraph (1) shall be allocated to Canada in accordance with the principles set forth in Article III of the trade agreement between the United States of America and Canada, signed November 17, 1938. Unless otherwise mutually agreed upon, the share to be allocated to Canada shall be that provided for in paragraph (3) of this Article.

(3) Of the total quantity of such articles which may be entered, or withdrawn from warehouse, for consumption during any quota period, not more than 70,000 shall be imported from Canada, nor more than 30,000 from all other foreign countries, of which not more than 500 shall be from any country from which no such articles were imported in the calendar year 1939. For the quota period from December 20, 1940, to November 30, 1941, inclusive, there shall be deducted from the foregoing quantities, however, the number of such articles imported from Canada and from all other foreign countries, respectively, which are entered, or withdrawn from warehouse, for consumption during the period December 1 to December 19, 1940, inclusive, as determined and made public by the Secretary of the Treasury of the United States.

(4) Not more than 25 per centum of the quantity of such articles entitled to entry from Canada or from all other foreign countries, respectively, during any quota period may be entered, or withdrawn from warehouse, for consumption during any one month. The period from December 20 to December 31, 1940, inclusive, shall be considered a month, but there shall be deducted from the maximum quantities entitled to entry during such period the number of such articles imported from Canada and from other foreign countries, respectively, which are entered, or withdrawn from warehouse, for consumption during the period from December 1 to December 19, 1940, inclusive, as determined and made public by the Secretary of the Treasury of the United States. If the number of such articles imported from Canada or from all other foreign countries which are entered, or withdrawn from warehouse, for consumption during the period from December 1 to December 19, 1940, inclusive, equals or exceeds the respective maximum quantity entitled to enter during the remainder of December 1940 under the provisions of this paragraph, no further entries of articles chargeable against the maximum quantity equalled or exceeded shall be permitted during that month.

(5) Notwithstanding the provisions of paragraphs (2), (3) and (4) above, any part of the total quantity of such articles entitled to entry during any quota period which has not been entered, or withdrawn from warehouse, for consumption prior to May 1 of each year, may be entered, or withdrawn from warehouse, for consumption during the remainder of the quota period without reference to the country of exportation or the limitations of paragraph (4). The Secretary of the Treasury of the United States shall, as soon as possible after May 1 of each year, determine and make public the number of such articles which may be entered under the provisions of this paragraph.

(6) It is agreed that, if after consultation with the Government of the United States of America the Government of Canada so requests, the President of the United States of America shall proclaim that on and after the date fixed in such proclamation no articles imported from Canada and subject to the quota herein provided for in respect of Canada shall be permitted to be entered, or withdrawn from warehouse, for consumption unless such articles are accompanied by official certificates of the Government of Canada stating them to be of Canadian origin.

ARTICLE III

The total quantities of the articles hereinafter specified which may be entered, or withdrawn from warehouse, for consumption in the United States of America during any twelve-month period commencing on December 1 in the year 1941 or any subsequent year shall be:

(a) Tails of silver or black foxes	5,000 pieces
(b) Paws, heads, or other separated parts of silver or black fox furs and skins (other than tails)	500 lbs.
(c) Piece plates made of pieces of silver or black fox furs and skins	550 lbs.
(d) Articles, other than piece plates, made wholly or in chief value of one or more silver or black fox furs or skins or parts of such furs or skins	500 units*

*NOTE: A unit shall consist of any whole silver or black fox fur or skin or any part of such a fur or skin contained in such articles.

For the period from December 20, 1940 to November 30, 1941, inclusive, the total quantities of the foregoing classes of articles which may be entered, or withdrawn from warehouse, for consumption shall be the respective quantities specified above less the amounts of the above classes of articles, respectively, which were entered, or withdrawn from warehouse, for consumption during the period from

December 1 to December 19, 1940, inclusive, as determined and made public by the Secretary of the Treasury of the United States of America.

ARTICLE IV

The following shall not be subject to or affect the limitations provided for in Articles II and III:

(a) Articles of wearing apparel imported by returning residents or other persons arriving in the United States of America for their personal use and not intended for sale;

(b) Articles admitted to entry under paragraph 1615 of the Tariff Act of 1930, as amended;

(c) Live silver or black foxes valued at $150 or more each and shipped to the United States of American prior to the date on which this Agreement enters provisionally into force.

ARTICLE V

The Government of the United States of America reserves the right to terminate Articles II and III of this Agreement and to substitute therefor an autonomous quota regime. Should the Government of the United States of America avail itself of this right, it agrees that the total quantities of the articles specified in Articles II and III permitted to be entered, or withdrawn from warehouse, for consumption in the United States shall not be less than those set forth in the said Articles, and that a share of the total permitted entries of the articles specified in Article II shall be allocated to Canada in accordance with the provisions of Article II.

ARTICLE VI

1. The present Agreement shall be proclaimed by the President of the United States of America and shall be ratified by His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of Canada. It shall enter definitively into force on the day following the exchange of the Proclamation and the instrument of ratification, which shall take place at Washington as soon as possible.

2. Pending the definitive coming into force of this Agreement, it shall enter provisionally into force on December 20, 1940. Upon the provisional entry into force of this Agreement, the supplementary trade agreement entered into between the United States of America and Canada on December 30, 1939, shall terminate.

3. So long as the present Agreement remains in force it shall constitute an integral part of the trade agreement entered into between the United States of America and Canada on November 17, 1938, and shall be subject to termination as a part of that Agreement.

4. Should it appear to either the Government of the United States of America or the Government of Canada that the emergency conditions with respect to the marketing of silver or black fox furs and skins which have given rise to the conclusion of this Agreement have ceased to exist or have become substantially modified, that Government may, after consultation with the other Government, terminate the present Agreement on 90 days' written notice. Moreover, the present Agreement may be terminated at any time by agreement between the Governments of the two countries.

5. Should the present Agreement be terminated in accordance with the provisions of paragraph 4 of this Article, the provisions of item 1519 (c) of Schedule II of the trade agreement entered into between the United States of America and Canada on November 17, 1938, which have been suspended by this Agreement, shall thereupon automatically reenter into force.

In witness whereof the respective Plenipotentiaries have signed this Agreement and have affixed their seals hereto.

Done in duplicate, at the City of Washington and the City of New York, this thirteenth day of December, 1940.

For the President of the United States of America:
[SEAL] CORDELL HULL
Secretary of State
of the United States of America

For His Majesty, in respect of Canada:
[SEAL] LORING C. CHRISTIE
Envoy Extraordinary and Minister
Plenipotentiary to the United
States of America

WHEREAS, such modifications of existing duties and other additional import restrictions and such continuance of existing customs and excise treatment as are set forth and provided for in the Agreement are required and appropriate to carry out the said Agreement;

WHEREAS, it is provided in Article VI of the said Agreement that it shall be proclaimed by the President of the United States of America and shall be ratified by His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of Canada, and that it shall enter definitively into force on the day following the exchange of the Proclamation and the instrument of ratification;

AND WHEREAS, it is further provided in Article VI of the said Agreement that, pending the definitive coming into force of the Agreement, it shall enter provisionally into force on December 20, 1940;

NOW, THEREFORE, be it known that I, Franklin D. Roosevelt, President of the United States of America, acting under the authority conferred by the said Tariff Act of 1930, as amended, do hereby proclaim the said Agreement of December 13, 1940 to the end that the same and every part thereof may be observed and fulfilled with good faith by the United States of America and the citizens thereof, provisionally on and after December 20, 1949, pending the definitive coming into force of the Agreement, and definitively on and from the day following the exchange of this my proclamation for the ratification of His Majesty in respect of Canada, as provided for in Article VI of the said Agreement, and I do further proclaim that my proclamation of December 30, 1939, shall be terminated upon the provisional application of the present Agreement on December 20, 1940.

PURSUANT to the proviso in Section 350 (a) (2) of the said Tariff Act of 1930, as amended by the said Act of June 12, 1934, I shall from time to time notify the Secretary of the Treasury of the countries with respect to which application of the duties and other import restrictions herein proclaimed is to be suspended.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this eighteenth day of December in the year of our Lord one thousand nine hundred and forty, and of the Independence of the United States of America the one hundred and sixty-fifth.

[SEAL] FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

SUPPLEMENTARY PROCLAMATION

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS, by my Proclamation of December 18, 1940, I did proclaim and make public the Trade Agreement concerning silver or black foxes, silver or black fox furs and skins, and related articles, which, pursuant to Section 350 (a) of the Tariff Act of 1930 of the Congress of the United States of America, as amended by the Act of June 12, 1934 (48 Stat. 943), as extended by Joint Resolution of Congress approved March 1, 1937 (50 Stat. 24), I entered into on December 13, 1940, through my duly empowered Plenipotentiary, with His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of Canada, through his duly empowered Plenipotentiary, to replace the supplementary Trade Agreement concerning silver or black foxes, silver or black fox furs and skins, and related articles, entered into between the President of the United States of America and His Majesty in respect of Canada on December 30, 1939;

AND WHEREAS my said proclamation of December 18, 1940 was made to the end that the said Agreement of December 13, 1940 and every part thereof might be observed and fulfilled with good faith by the United States of America and the citizens thereof, provisionally on and after December 20, 1940, as was provided in Article VI of the said Agreement, and definitively on and from the day following the exchange of my said proclamation for the ratification of His Majesty in respect of Canada, as provided for in the said Article VI;

AND WHEREAS, the said proclamation of December 18, 1940 by the President of the United States of America of the said Trade Agreement concerning silver or black foxes, silver or black fox furs and skins, and related articles, signed on December 13, 1940, and the ratification of the said Agreement by His Majesty in respect of Canada were duly exchanged at Washington on August 13, 1941;

NOW, THEREFORE, be it known that I, Franklin D. Roosevelt, President of the United States of America, supplementing my said proclamation of December 18, 1940, do hereby proclaim that the said Trade Agreement signed on December 13, 1940, entered definitively into force on August 14, 1941, the day following the exchange of my proclamation and His Majesty's ratification.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twenty-first day of August in the year of our Lord one thousand nine hundred and forty-one, and of the Independence of the United States of America the one hundred and sixty-sixth.

[SEAL] FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State

DEPARTMENT OF STATE

MARCH 20, 1947.
No. 219.

QUOTA ENDED ON FOX FURS

The President has signed a proclamation terminating the absolute quota on imports of silver or black fox furs and certain silver or black foxes into the United States and restoring the duty on such furs from 35 percent to the rate of 37½ percent ad valorem fixed by the trade agreement with Canada signed on November 17, 1938. These changes will go into effect on May 1, 1947. This proclamation followed an exchange of notes between the United States and Canada agreeing to terminate the supplementary trade agreement with Canada on such furs.

The first supplementary trade agreement between the United States and Canada on fox furs went into effect January 1, 1940. It established an annual absolute global quota of 100,000 units on the importation of silver or black fox furs and skins into the United States and reduced the duty from 37½ percent ad valorem, the rate fixed in the 1938 trade agreement with Canada, to 35 percent. Of the global quota Canada was allocated 58,300 units and all other countries combined 41,700 units. A second fox-fur agreement, which went into effect December 20, 1940, replaced the first fox-fur agreement.

In this later agreement Canada was during the fur-marketing season allotted 70,000 out of the global quota of 100,000 units, and all other countries combined were allotted 30,000. The second agreement continued the 35-percent rate of duty. It is this agreement which is now terminated.

The termination of this agreement, in conformity with a provision in it for its termination at any time by agreement between the United States and Canadian Governments, gives recognition to the fact that the emergency conditions in the early part of the war in Europe which led to the negotiation of the present fox-fur agreement—closed foreign markets and suddenly increased quantities of furs available for United States markets—no longer exist. Since then there has been a sharp diminution in world silver or black fox-fur production. Recovery in European production will require some years. Fox-fur prices have recently been generally higher in Europe than in the United States. For some months the rate of imports into the United States has been low and there is no prospect of a great increase in the immediate future. European markets for fox furs have recovered considerably since the end of the war. These facts have been clearly established by a public hearing held by the Committee for Reciprocity Information on March 7, 1946 and by other information which has been available from domestic and foreign sources.

Termination of the agreement also recognizes the changed situation resulting from the end of the war, compared with December 1940, in the ability of various European countries, particularly Norway, to send furs to this market, and it removes the possibility of discrimination against such countries as a result of the allocation provisions in the agreement.

The interdepartmental trade-agreements organization will, in conformity with its customary procedure, follow closely the situation affecting imports of silver fox furs into the United States.

The text of the proclamation follows:

"BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

"A PROCLAMATION

"WHEREAS, pursuant to the authority conferred by Section 350 (a) of the Tariff Act of 1930, as amended by the Act of June 12, 1934 (48 Stat. 943; U. S. C., 1940 ed., title 19, sec. 1351 (a) P), the period within which such authority may be exercised having been extended by Joint Resolution approved March 1, 1937 (50 Stat. 24), the President of the United States of America entered into a trade agreement on November 17, 1938, through his duly empowered Plenipotentiary, with His Majesty the King of Great Britain, Ireland and the British dominions beyond the seas, Emperor of India, in respect of Canada, through his duly empowered Plenipotentiary, which trade agreement was proclaimed on November 25, 1938 and June 17, 1939 by the President, acting pursuant to the authority conferred by the said Tariff Act of 1930 as amended;

"WHEREAS, pursuant to the authority conferred by said Section 350 (a) of the Tariff Act of 1930, as amended, the period within which such authority may be exercised having been extended by Joint Resolutions approved March 1, 1937 (50 Stat. 24) and April 12, 1940 (54 Stat. 107), the President of the United States of America entered into a trade agreement on December 13, 1940, through his duly empowered Plenipotentiary, with His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of Canada, through his duly empowered Plenipotentiary, which agreement of December 13, 1940 was proclaimed by the President on December 18, 1940 and August 21, 1941;

"WHEREAS Article I of the said trade agreement of December 13, 1940 provided as follows:

" 'During the effectiveness of this Agreement, item 1519 (c) of Schedule II of the trade agreement entered into between the United States of America and Canada on November 17, 1938, shall be suspended . . .';

"WHEREAS Article VI, paragraph 4 of the said trade agreement of December 13, 1940 provides that such agreement may be terminated at any time by agreement between the Governments of the two countries;

"WHEREAS Article VI, paragraph 5, of the said trade agreement of December 13, 1940 provides as follows:

" '5. Should the present Agreement be terminated in accordance with the provisions of paragraph 4 of this Article, the provisions of item 1519 (c) of Schedule II of the trade agreement entered into between the United States of America and Canada on November 17, 1938, which have been suspended by this Agreement, shall thereupon automatically reenter into force".

"WHEREAS the Government of the United States of America and the Government of Canada, by notes exchanged on March 18, 1947, have agreed that the said trade agreement of December 13, 1940 shall be terminated in whole on May 1, 1947.

"NOW, THEREFORE, be it known that I, Harry S. Truman, President of the United States of America, acting pursuant to the authority conferred by Section 350 (a) of the Tariff Act of 1930, as amended, do hereby proclaim that the effectiveness of said proclamations of December 18, 1940 and August 21, 1941 shall be terminated in whole on May 1, 1947, and that the provisions of item 1519 (c) of Schedule II of the trade agreement entered into between the United States of America and Canada on November 17, 1938 shall reenter into force on May 1, 1947.

"IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

"DONE at the city of Washington this 18th day of March in the year of Our Lord one thousand nine hundred forty-seven and of the Independence of the United States of America the one hundred seventy-first.

"By the President: HARRY S. TRUMAN
"Acting Secretary of State DEAN ACHESON"

Situation Under the Supplementary Trade Agreement With Canada Relating to Fox Furs

The first fox-fur agreement was negotiated at the close of 1939, as an emergency measure, since the closing of foreign markets as a result of the war had led to increased quantities of furs being available for importation into the United States, with the possibility of dislocation of the United States market. This agreement was replaced by a second fox-fur agreement effective December 20, 1940. The second agreement contained provisions for its termination when the emergency conditions which led to its negotiation no longer existed.

The second agreement continued the global import quota on silver or black fox furs and skins of 100,000 units provided in the first agreement, but allocated 70,000 units to Canada. It also provided for separate quotas for tails, paws, heads, or other separated parts; piece plates; and other articles made from silver fox furs.

Imports of silver or black fox furs by unit into the United States under the agreements and since termination of the second agreement on May 1, 1947, are as follows:

Year	Imports from all countries	Imports from Canada	Imports from Norway	Year	Imports from all countries	Imports from Canada	Imports from Norway
1940	76,124	34,807	1,799	1945	70,838	68,128	2,215
1941	94,740	71,373	4,094	1946	58,916	49,059	1,450
1942	72,317	46,613	----------	1947	62,482	48,536	11,009
1943	99,958	73,391	133	1948	[1] 32,120	[2] 26,932	[2] 422
1944	66,387	51,004	----------				

[1] 12 months.
[2] 10 months.

The above table indicates that imports of fox furs have declined since termination of the quota. Total imports in 1948, the first full year since the termination of the agreement, were less than one-third the amount of the quota under the agreement.

DEPARTMENT OF STATE

DEPARTMENT OF AGRICULTURE

NOVEMBER 26, 1948.
No. 954

Through an exchange of notes completed on November 23, 1948, the United States and Canada entered into an agreement whereby the Canadian Government will institute a price-support and export-permit program for the 1948 Canadian potato crop. Under this program there will be no further exports of table-stock potatoes to the United States and the program will be designed to channel exports of certified seed potatoes into seed outlets only in the United States. The agreement was reached following a series of conferences between Canadian officials and officials of the United States Departments of State, Agriculture, and Treasury (including the Customs Bureau).

Restriction of export of seed potatoes will be accomplished by the Canadian Government through an export-permit system. The export permits for seed potatoes will be issued to Canadian shippers on a time schedule basis, designed to direct shipment of Canadian certified seed potatoes into those States where there has been a traditional demand for certified seed potatoes for actual use for seed, and only during a short period immediately preceding the normal planting date. Before obtaining such permits Canadian exporters will be required to prove that they have firm orders from bona fide users of Canadian seed potatoes in the United States and that their sales contracts contain a clause restraining the buyers from diverting to other destinations or uses.

In connection with the institution of such a program by Canada, the United States indicates that it will not hereafter impose any quantitative limitations or fees on the 1948 crop of Canadian potatoes.

In Canada's prompt and effective cooperation with the United States in this matter, another instance has been provided of the readiness of the two countries to take joint action to meet problems of mutual concern. Canada, in entering

into this agreement, has assisted the United States materially by recognizing the adverse effect which unrestricted imports of Canadian potatoes would have on the United States potato programs.

The text of the exchange of notes follows:

"CANADIAN EMBASSY

"No. 538

"WASHINGTON, D. C.
"*November 23rd, 1948.*

"The Honourable GEORGE C. MARSHALL,
"*Secretary of State of the United States,*
"*Washington, D. C.*

"SIR,

"I have the honour to refer to the discussions which have taken place between the representatives of the Government of Canada and of the Government of the United States of America regarding the problems which would confront the Government of the United States in the operation of its price support and other programmes for potatoes if the imports of Canadian potatoes, during this current crop year, were to continue to be unrestricted. After careful consideration of the various representations which have been made to the Canadian Government on this subject, the Canadian Government is prepared to:

"1. Include Irish potatoes in the list of commodities for which an export permit is required under the provisions of the Export and Import Permits Act.

"2. Withhold export permits for the movement of table stock potatoes to the United States proper, excluding Alaska.

"3. Issue export permits for the shipment of Canadian certified seed potatoes to the United States, but only under the following circumstances:

"(a) Export permits will be issued to Canadian exporters for shipments to specified States in the United States and such permits will only be granted within the structure of a specific schedule. The schedule is designed to direct the shipment of Canadian certified seed potatoes into those States where there is a legitimate demand for certified seed potatoes and only during a short period immediately prior to the normal seeding time. A draft of this schedule is now being jointly prepared by Canadian and United States officials.

"(b) Export permits would only be granted to Canadian exporters who could give evidence that they had firm orders from legitimate United States users of Canadian seed potatoes. Canadian exporters would also be required to have included in any contract into which they might enter with a United States seed potato importer a clause in which the importer would give an assurance that the potatoes would not be diverted or reconsigned for table stock purposes.

"(c) The Canadian Government would survey the supply of Canadian certified seed potatoes by class and consider the possibility of giving precedence to the export of Foundation and Foundation A classes of certified seed.

"(d) The names and addresses of the consignees entered on the export permit would be compiled periodically and this information would be forwarded to the United States Government.

"In instituting a system which has the effect of restricting exports of Canadian potatoes to the United States, the Canadian Government recognizes a responsibility to the Canadian commercial grower in certain surplus potato areas and is prepared to guarantee a minimum return on gradable potatoes for which the grower cannot find a sales outlet. Although the details of such a programme have not been finalized, it is anticipated that the Canadian Government will announce, at approximately the same time as potatoes are placed under export control, a floor price which will be effective April 1st, 1949 for certain carlot shipping areas in the East. To implement this programme the Canadian Government would inspect the potato holdings of commercial growers in Prince Edward Island, and several counties of New Brunswick, on or after April 1st and would undertake to pay a fixed price for every hundred pounds of Canada No. 1 potatoes found in the bins. It is not anticipated that any actual payment would be made at that time and it would be understood that if any of the potatoes examined were subsequently sold or used for seed purposes the owner would forfeit any claim for assistance on such potatoes. In other words, the Canadian Government would make no payment on potatoes which move into export trade, or which are used for seed purposes.

"It should be noted that the Canadian proposals to institute export permit control on Canadian potatoes and to inaugurate a price support programme are contingent upon assurances from the United States Government that:

"a) The United States Government will not hereafter impose any quantitative limitations or fees on Canadian potatoes of the 1948 crop exported to the United States under the system of regulating the movement of potatoes from Canada to the United States outlined herein.

"b) The Canadian Government proposal, as outlined herein, to guarantee a floor price to certain commercial growers in the Maritime Provinces would not be interpreted by United States authorities as either a direct or indirect subsidy and that in consequence there would be no grounds for the imposition of countervailing duties under Section 303 of the United States Tariff Act of 1930.

"If the United States Government in its replying note accepts the Canadian proposals and gives to the Canadian Government the assurances required, as outlined above, this note and the reply thereto will constitute an agreement on this subject.

"Accept, Sir, the renewed assurances of my highest consideration.

"H. H. WRONG"

"WASHINGTON, D. C.
"*November 23, 1948*

"EXCELLENCY:

"The Government of the United States appreciates the assurance of the Government of Canada contained in your note no. 538 of November 23, 1948, that the Government of Canada is prepared, contingent upon the receipt of certain assurances from the Government of the United States, to establish the controls outlined therein over the exportation of potatoes from Canada to the United States.

"In view of the adverse effect which unrestricted imports of Canadian potatoes would have on the potato programs of the United States and the fact that it is anticipated that the Canadian proposal will substantially reduce the quantity of potatoes which would otherwise be imported into the United States, and in the interest of international trade between the United States and Canada and other considerations, the United States Government assures the Canadian Government that it will not hereafter impose any quantitative limitations or fees on Canadian potatoes of the 1948 crop imported into the United States under the system of regulating the movement of potatoes to the United States outlined in the Canadian proposal.

"The Government of the United States also wishes to inform the Canadian Goverment with respect to that Government's proposal to guarantee a floor price to certain commercial growers in the Maritime Provinces, that in the opinion of the Treasury Department, the operation of such a proposal as outlined by the Canadian Government would not be considered as a payment or bestowal, directly or indirectly, of any bounty or grant upon the manufacture, production, or export of the potatoes concerned and no countervailing duty would, therefore, be levied, under the provisions of Section 303, Tariff Act of 1930, as a result of such operation of the proposal on potatoes imported from Canada.

"The United States Government agrees that your note under reference, together with this reply, will constitute an agreement on this subject.

"Accept, Excellency, the renewed assurances of my highest consideration.

"ROBERT A. LOVETT
"*Acting Secretary of State of the United States of America*"

THE CANADA-UNITED STATES POTATO MARKETING AGREEMENT

Under this agreement, Canada established a system of export controls on exports of potatoes to the United States. This agreement is reported to be working most satisfactorily, imports having been only a small fraction of what they were just prior to the agreement and importers having generally observed the undertaking not to divert or reconsign them for table-stock purposes. In the few cases where evidence of possible violation has appeared, the United States Department of Agriculture has conducted a thorough investigation with a view to informing the Canadian Government of any violation and enabling it to cut off shipments to proved violators.

Senator WILLIAMS. Before we go on with trade agreements, may I ask a question of Mr. Brown?

You said that you entered into a negotiation with Canada and made certain concessions on tariffs of our agricultural products, potatoes, pountry and so forth.

What concessions did Canada give us in return?

Mr. BROWN. It is a very long list. I think there are some 700 items.

Senator WILLIAMS. Could you name a few of those items?

Mr. BROWN. All of our principal agricultural exports, fruits, vegetables, and a great many of our industrial products, machinery, textiles, and so forth.

I have a copy of the agreement here, and I could give you several more illustrations.

Senator WILLIAMS. Could you put a copy of that in the record?

The CHAIRMAN. Do you have a copy of those?

Mr. BROWN. I am sorry. This is the old one of 1938. I will have to get a copy of the tariff concessions made by Canada in the general agreement.

However, the concessions which Canada gave us, as I recall, cover items accounting for well over three-quarters of our trade with Canada.

Senator WILLIAMS. Could you furnish us with a copy of those concessions and that agreement?

Mr. BROWN. They are included in the general schedule of Canadian concessions to all countries in the Geneva agreements.

I could provide a copy of that or I could perhaps better provide you with an analysis that we made of the general agreement which has a section devoted to the concessions we obtained from Canada.

There is also a Commerce Department analysis of the concessions we obtained from Canada which I think would give you the information you want.

Senator WILLIAMS. I would appreciate that.

(The information is as follows:)

DEPARTMENT OF STATE

EXCERPT FROM ANALYSIS OF GENERAL AGREEMENT ON TARIFFS AND TRADE, SIGNED AT GENEVA, OCTOBER 30, 1947

[Released November 1947]

Canada.—Tariff concessions made by Canada covered over 750 separate tariff items and thousands of articles of interest to the United States. Duty reductions applied to approximately 500 of the former. In terms of 1939 trade the concessions benefit about 71 percent of the imports from the United States, either by way of reductions from the rates of duty presently applicable, or by way of the binding of the present free or dutiable status. The trade so covered was valued at $354,000,000[1] in 1939 (total imports from the United States in that year being $497,000,000). Duties were reduced on 45 percent of the 1939 value of dutiable trade, or $136,625,000.

The 1939 trade was, of course, low in relation to the current trade which is about four times as high in value and also higher in volume. In 1946, the value of imports from the United States was recorded at $1,406,000,000, and the indications are that this year's total may reach two billions. In this increased trade, the dutiable portion of the import has not decreased but increased. It appears, therefore, that Canada's reductions in duty will apply this year to

[1] Canadian dollars used throughout.

United States trade of at least $450,000,000. In addition to concessions on items of primary interest to the United States, other benefits were acquired by virtue of concessions on products in which the United States may have a secondary interest. Some concessions, also, have a special interest in that they involved the elimination or reduction of the preferential rates extended by Canada to the other members of the British Commonweatlth.

While some new items were bound, bindings, in general, were carried over from previous trade agreements; no attempt is made to summarize the details of this list. It is not, however, unimportant, since often it provides for the maintenance of the free status of some important raw materials in which the United States is the largest but not the only supplier. Often also, it assures the continuation of moderately low rates on manufactures in which the Canadian production is expanding, and in which our large share of the business makes further reduction impossible. Examples of highly important items included again in the bound list are raw cotton, which is free, and machinery, "not otherwise provided for" which is dutiable at 10 percent for items of a kind not made in Canada, and 25 percent for items which compete with Canadian production. The total value of Canada's imports from the United States of items in the bound list, on the basis of 1939 trade, is $216,000,000. A few of the rates bound in the previous agreements are no longer in that category because of special developments of a competitive nature. However, the number of these is extremely limited, the most important examples being biological products for injection and certain plastics.

Commodities on which concessions of various types were made which are of primary interest to the United States include anthracite coal, fresh fruits and vegetables, certain dried fruit, tobacco, whisky, office machines, aircraft, certain items of wearing apparel, refrigerators, washing machines, positive motion-picture film, and many other manufactures.

Coal.—Outstanding among the reductions of interest to the United States was one long requested by the industry of this country, viz., the removal of the 50-cent-per-ton duty on anthracite coal, which has applied since 1932. This important fuel, used mainly for heating Canadian homes, was made free of duty. The duty on other coal was reduced from 75 to 50 cents per ton. The 1946 coal import from the United States was valued at a total of $118,000,000, of which anthracite constituted $42,000,000. The $1-per-ton duty on coke, in which trade is also large, was bound against increase.

Agricultural products.—Another significant group of concessions concerns fresh fruits and vegetables, in which Canadian consumption has advanced markedly in recent years, in conformity with the advance in general income and dietary standards. Grapefruit, which has heretofore been subject to a tariff of one-half cent per pound, was put on the free list, and the free all-year treatment which has applied to oranges since 1942, by orders in council, was incorporated in the tariff structure. With these changes, all citrus fresh fruit became free of duty Grapes of the vinifera type, which have been dutiable at 1 cent per pound, were also made free. In other fresh-fruit items, which compete more directly with Canadian production, important reductions were made in the specially advanced rates which apply in the season when Canadian crops are on the market in large quantity. As in the 1938 agreement, provision was made for limiting the time in which the advanced valuations are applicable, and it was provided that they shall be in lieu of, rather than in addition to, the normal off-season rate, which remains at 10 percent. The 1946 trade in fresh fruits was valued at $48,000,000, of which citrus fruits accounted for $28,000,000.

The concessions in fruits were extended also to canned fruits, where reductions apply generally, and to orange and pineapple juice and fruit sirups, where trade is large. In dried fruits, the duty on raisins was reduced from 4 to 3 cents per pound; the trade from the British Commonwealth countries was continued free of duty. Plums and prunes, dried, unpitted, were put on the free list, whereas previously they had been subject to a duty of 1 cent per pound. In 1946 they accounted for an import of $3,000,000, all from the United States. Total trade in raisins was somewhat larger—almost $4,000,000—but Australia did two-thirds of the business.

The same sort of reductions in the advanced seasonal valuations were applied to fresh vegetables as to fresh fruits, and some reductions were provided for in dried beans. The duty on frozen vegetables was reduced from 25 to 20 percent ad valorem. This also represents a very large sector of the import trade. The 1946 trade in fresh vegetables was valued at $24,000,000.

Among the many reductions in the food and agricultural group which are not included in the table, were those on baby chicks, eggs in the shell, cocoa preparations and confectionery, salt, biscuits, prepared cereal foods in small packages, starch, milled corn products (but not corn meal), gelatine, seeds and cut flowers (except orchids). In addition to the tobacco reduction shown, which is of limited interest in view of Canada's near self-sufficiency in cigarette types, the very high impost on cigarettes was reduced by $1 per pound.

Textiles.—Reductions in the textile group were important in clothing and miscellaneous manufactures where the rate of duty had been 30 percent and will hereafter be 25 percent. Women's and misses' outer garments of wool, dresses and other clothing of artificial silk, cotton dresses and men's shirts, and a long list of domestic requisites, sheets, towels, scarfs (including linen) were granted concessions; trade in these items is running currently at the annual rate of almost $17,000,000. In fabrics, which carry, in general, rates compounded of both specific and ad valorem duties, there were reductions but they were smaller, and complicated as to significance by the present abnormal shortage of goods and parallel reductions which were made to retain the preferential margin in favor of the United Kingdom. Ordinarily a very large supplier, that country has not yet regained anything like its normal place in Canada's general textile imports, and partly on this account, Canadian fabric imports from the United States are still extraordinarily large, over $50,000,000 in cottons alone.

Metals.—In the case of the metals schedules, which are the largest in point of trade and the most detailed from the viewpoint of tariff treatment, the tariff treatment accorded in preceding agreements was substantially continued; the relatively moderate rates which now stand on many types of industrial goods were bound.

An item to which special interest attaches from the viewpoint of imperial preference is tin plate, on which the Canadian Government will ask Parliament to eliminate the preference heretofore accorded the United Kingdom by applying a 15 percent rate to imports from that country which are now free and to reduce the 17½ percent rate assessed against the United States to 15 percent. In prewar years, the United Kingdom was the major supplier of tin plate to Canada by virtue of free entry, although there was also large trade from the United States. Because of war-born conditions, the United States has continued to do a very large business, but development of Canadian production in the last decade has very much affected import potentialities for the future.

Automotive products and machinery.—The important automotive schedule was unchanged, but the duties on aircraft and aircraft engines were reduced from 20 and 17½ percent, respectively, to 15 percent. Free entry was bound for most farm implements and machinery. Duties on engines and boilers, not including stripped automobile engines, were reduced from 25 to 20 percent. The rate on ore crushers and certain other mining machinery was reduced from 17½ to 15 percent and free entry was accorded locomotives and railway motorcars for mining, metallurigcal, and forest industries, when of a class not made in Canada. There were some reductions in office and household machinery which are not unimportant considering the new levels established and the value of the trade covered.

Miscellaneous products.—In consumer goods, cutlery and stamped and coated products embody reductions which affect a fairly large trade which has been passing in spite of fairly substantial duties. Heating equipment and a long line of electrical goods were subject to small duty reductions. The rate on radio apparatus was reduced from 25 to 20 percent. Imports of the latter in 1946 were valued at more than $5,000,000.

Large trade is also involved in the rates which have been negotiated for furniture, which will hereafter be 27½ percent on wood and 25 percent on other kinds in lieu of the 32½ percent and 27½ percent now applying. Imports in these goods in 1946 amounted to $3,200,000. The rate on tableware of china and porcelain was reduced from 35 to 25 percent, and on tableware of earthenware from 25 to 20 percent. Both these changes reduced the preferential margin but in chinaware it will continue large, i. e., 25 percent. There were many changes in the rates on glass. From the viewpoint of United States interest, one of the more important pertains to staple glassware, including machine-made tumblers where the rate became 22½ in lieu of 27½ percent.

Amusement and sporting goods listed specifically for reductions include skis, fishing rods, and game boards. Phonographs, brass band instruments, organs,

including pipe organs, and brass band instruments of a kind not made in Canada were covered by concessions. There were also cuts in rates on perfumery, toilet preparations, brushes, buttons, lead pencils and crayons, mirrors and picture frames. In leather goods there was a small duty reduction on shoes (to 27½ percent from 30 percent), and larger rate reductions (from 30 to 25 percent) on trunks and valises and musical instrument cases, fancy boxes, etc. A duty reduction from 35 to 32½ percent was also made in jewelry, in which the 1946 trade was valued at $3,446,000.

An important preference eliminated was that on motion-picture films, positives, in which the rate became 1½ cents per foot, the same as for British films, in lieu of the 2¼ cents heretofore assessed. The duty on negative films was also reduced importantly, from 25 to 10 percent.

Advertising matter, shipped in bulk, became dutiable at 10 cents per pound, but not less than 25 percent ad valorem. Heretofore the duty had been 12½ cents but not less than 27½ percent. The duty-free entry of small packages, valued at not more than $1, was continued.

Canada: Summary of principal items of interest to the United States

Tariff No.	Description	Unit	Current trade treatment		New rate		Imports from United States in 1939 (in $1,000 Canadian)
			To United States	Preferential rate to British Commonwealth [1]	To United States	B. P.	
586	Coal, Anthracite (Not Screenings)	Cents Per Ton	50	Free	Free	Free	14,037
588	Coal, Other (Including Anthracite Screenings)	Cents Per Ton	75	35	50	35	18,486
101	Oranges		Free [2] from Jan. to July Incl., 35 Cents Per CWT Then.	Free	Free	Free	5,842
100, 100A	Grapefruit	Cents Per Lb.	½	Free	Free	Free	1,187
93–96, Incl.	Other Fresh Fruits		10% in Off Season Allowed Seasonal Valuations.	Free	No Charge in Off Season Reductions in Seasonal Valuations Averaging 33⅓%.	Free	6,550
83–87	Fresh Vegetables		Variable Monthly 10% in Off Season Advanced Seasonal Valuations.	Free	No Charge in Off Season; Reduction in Seasonal Valuations Averaging 23%.	Free	5,377
99C	Raisins	Cents Per Lb.	4	Free	3	Free	3,206
99A	Plums and Prunes, Dried and Unpitted	Cents Per Lb.	1	Free	Free	Free	779
55	Corn	Cents Per Bushel.	10	Free	8	Free	1,857
62, 62A	Rice, Uncleaned, Unhulled, Paddy	Percent	Free but with 25% Preference to Australia When That Country Can Supply.	Free	Free Potential Preference to Australia Eliminated.	Free	299
109A	Peanuts, Green	Cents Per Lb.	1	Free	Free	Free	11
109, 114	Shelled Nuts	Cents Per Lb.	Some 3 Some 2	Some 3 Some 2	1	1	439
152	Fruit Juices and Fruit Syrups:						
	Pineapple Juice	Percent	25	Free	10	Free	173
	Grapefruit Juice	Percent	15	Free	15	Free	390
	Other, Including Orange	Percent	25	Free, Ex. Lime	10 12½	Free, Ex. Line 10	400
142B	Tobacco, Unmanufactured (Not Turkish):						
(I)	Unstemmed	Cents Per Lb.	40	Free	20	Free	1,269
(II)	Stemmed	Cents Per Lb.	60	Free	30	Free	47

[1] Hereafter referred to as B. P. Rate.
[2] Since December 1942 free all year by order in Council.

Canada: Summary of principal items of interest to the United States—Continued

Tariff No.	Description	Unit	Current trade treatment		New rate		Imports from United States in 1939 (in $1,000 Canadian)
			To United States	Preferential rate to British Commonwealth [1]	To United States	B. P.	
Ex 156	Whiskey	Per Proof Gal. ($).	6.00 7.00	5.00 7.00	5.00 7.00	4.50 7.00	243
	Clothing and Miscellaneous Manufactures, N. O. P.:						
532	Of Cotton	Percent	30	25	25	25	1,492
548	Of Linen and Other Vegetable Fiber	Percent	30	25	25	25	417
555	Of Wool and Other Animal Fibers	Percent	Some 32½%; Some 40% Plus 32½ Cents Per Pound.	25	27½	25	243
567A	Of Artificial Silk and Other Synthetic Fibers	Percent	32½	25	27½	20	933
440L (1)	Aircraft (Not Including Engines)	Percent	20	Free	15	Free	2,835
(11)	Parts (Not Including Engines)	Percent	15	Free	15	Free	
440N	Aircraft Engines	Percent	17½	Free	15	Free	874
440O	Engine Parts, Carburetors, Etc.:						
(1)	Not Made in Canada	Percent	Free	Free	Free	Free	218
(11)	Other	Percent	6¾	Free	5	Free	
352	Miscellaneous Manufactures of Brass or Copper	Percent	24¼	20	20	20	2,610
445D	Electric Wireless or Radio Apparatus	Percent	25	Free	20	Free	2,558
443	Apparatus for Heating or Cooking	Percent	25	15	22½	15	2,183
362C	Nickel Plated Ware, Gilt Electro-Plated Ware	Percent	30	17½	22½	15	1,657
445G	Electric Motors	Percent	25	15	22½	15	1,478
Ex 611A	Boots, Shoes, Slippers and Insoles (Not Canvas) with Rubber Soles.	Percent	30	22½	27½	20	1,150
178	Advertising and Printed Matter	Cents Per Pound.	12½	5	10	5	1,363
		Not Less Than.	27½ Percent		But Not Less Than 25 Percent		
623	Musical Instrument Cases, Fancy Boxes, Etc	Percent	30	15	22½	12½	1,041
410L	Ore Crushers, Stamp and Grinding Mills, Rock Drills, Etc	Percent	17½	5	15	5	1,217
326 (1)	Glass, Demijohns, Carboys, Machine Made Tumblers, Etc	Percent	27½	15	22½	15	1,049
414 (1)	Typewriters	Percent	20	Free	20	Free	1,251
(11)	Typewriter Parts	Percent	20	Free	15	Free	
414C	Bookkeeping and Calculating Machines and Parts	Percent	12½	Free	10	Free	1,078
(11)	Adding Machines	Percent	20	Free	17½	Free	162
	Adding Machine Parts	Percent	20	Free	15	Free	
415A	Refrigerators, Domestic or Stove	Percent	25	20	22½	20	1,189
428C	Engines or Boilers and Complete Parts (Not Auto)	Percent	25	15	20	15	1,133
647	Jewelry of Any Material for Adornment of the Person	Percent	35	25	32½	22½	853
432D	Manufactures of Tinplate, Decorated or Not	Percent	25	15	20	15	791

445	Electric Light Fixtures and Appliances	Percent	27½	20	22½	20	880
	Asbestos Manufactures:						
312A	Made of Asbestos of British Commonwealth Origin	Percent	20	Free	12½	Free	525
312	Not Made of Asbestos of British Commonwealth Origin	Percent	20	15	12½	12½	
415B	Washing Machines, Domestic	Percent	25	15	22½	15	842
597A	Phonographs, Gramophones, and Parts	Percent	24¾	15	20	15	634
212	Sulphate of Alumina, Alum Cake	Percent	15	Free	10	Free	663
519	Furniture—House, Office, Store:						
(1)	Of Wood	Percent	32½	15	27½	15	599
(11)	Other	Percent	27½	15	25	15	697
441E	Guns, Rifles, Not Made in Canada	Percent	15	Free	10	Free	108
441	Guns, Rifles, Other, Including Air Rifles, Not Toys	Percent	27½	10	22½	10	367
191A	Picture Post Cards, Greeting Cards and Similar Artistic Cards and Folders.	Percent	30	20	25	15	547
199B	Containers of Fiberboard or Paperboard	Cents Per Lb. But Not Less Than	1 25 Percent	1	5/8 20 Percent	5/8	504
385A	Sheets, Plates, Hoop, Band or Strip of Acid or Heat Resisting Steel, Valued at Not Less Than 5 Cents Per Lb.	Percent	17½	Free	12½	Free	398
252	Shoe blacking, etc	Percent	22½	12½	17½	12½	312
319	Glass in sheets and bent	Percent	25	Free	20	Free	31
320	Glass, plate, not bevelled, in panes not exceeding 7 sq. ft	Percent	20	Free	10	Free	368
321	Glass, plate, not bevelled, in panes exceeding 7 sq. ft	Percent	20	Free	20	Free	104
322	Plate glass, n. o. p	Percent	30	17½	25	17½	89
657A	Motion picture films positives	Cents per ft	2¼	1½	1½	1½	253
653	Brushes, not otherwise provided for	Percent	30	15	25	15	191
445A	Electric head, side and tail lamps, torches and flashlights	Percent	27½	20	22½	20	294
436	Railway cars and parts	Percent	27½	15	22½	15	368
461	Safes, doors for vaults, scales, balances, etc	Percent	27	10	20	10	276
607A	Single ply, sliced or rotary cut veneers of wood n. o. p. not over 5/16" in thickness, not taped or jointed.	Percent	20	10	15	10	279
288	Stoneware and earthenware	Percent	35	20	25	17½	124
435 (A)	Locomotives and Railway Motor Cars, of a Class Not Made in Canada, for use in Mining, Metallurgical, or Sawmill Operations.	Percent	12½	Free	Free	Free	200
(B)	Diesel Electric Locomotives, of a Class Not Made in Canada	Percent	12½	Free	10	Free	
394	Axles, Other Than Railway	Percent	30	22½	22½	22½	217
Ex 711	Vegetable Flavoring	Percent	20	15	10	10	206
	Vegetable Coloring	Percent	20	15	10	10	137
429	Cutlery or Iron or Steel:						
(B)	Table Knives and Forks	Percent	30	15	25	15	35
(C)	Penknives, Etc	Percent	30	Free	20	Free	24
(D)	Knives, N. O. P	Percent	30	Free	20	Free	89
(F)	Scissors and Shears	Percent	30	Free	20	Free	78
Ex (G)	Safety Razor Blades	Percent	25	Free	20	Free	103
655A	Lead Pencils and Crayons (Not Chalk)	Percent	35	10	30	10	104
432	Hollow Ware of Iron or Steel:						
	Enameled	Percent	30	17½	22½	17½	127
	Tinware	Percent	25	15	20	15	46
	Other	Percent	25	10	20	10	76

[1] Hereafter referred to as B. P. rate.

Canada: Summary of principal items of interest to the United States—Continued

Tariff No.	Description	Unit	Current trade treatment		New rate		Imports from United States in 1939 (in $1,000 Canadian)
			To United States	Preferential rate to British Commonwealth [1]	To United States	B. P.	
439B	Cars, Not Otherwise Provided For, Wheelbarrows, Road or Railway Scrapers, and Hand Cars	Percent	27½	15	22½	10	199
	Wire:						
351	Covered and Cable	Percent	27½	20	20	20	132
402A	Welded or Woven Fencing	Percent	30	20	25	17½	52
401G	N. O. P. of Iron or Steel	Percent	20	15	15	15	252
350	N. O. P. Other	Percent	30	10	20	10	121
622	Trunks, Valises, Etc	Percent	30	15	22½	12½	84
433	Baths, Bath-Tubs, Basins, Closets, Etc	Percent	25	5	20	5	160
407	Silent Chain, of a Class Not Made in Canada	Percent	20	Free	15	Free	68
407A	Chains, N. O. P., of Iron or Steel, and Parts	Percent	30	15	25	15	119
465	Signs of any Material Other Than Paper	Percent	25	10	20	10	106
223	Glass Mirrors and Silvered Glass	Percent	30	20	22½	20	94
193	Paper Bags or Sacks of all Kinds Printed or Not	Percent	30	15	22½	15	85
195	Wall Paper	Percent	30	17½	22½	17½	111
425	Lawn Mowers	Percent	30	10	25	10	101
424A	Hand Fire Extinguishers	Percent	30	22½	20	20	98
505A	Hardwood Flooring, Beech, Birch, Maple, and Oak, Tongued or Jointed	Precent	17½	17½	12½	12½	84
434F	Children's Carriages, Sleds, and Other Vehicles, and	Percent	30	15	22½	15	64

[1] Hereafter referred to as B. P. rate.

UNITED STATES DEPARTMENT OF COMMERCE

SCHEDULE OF CONCESSIONS GRANTED BY CANADA, IN THE GENERAL AGREEMENT ON TARIFFS AND TRADE CONCLUDED AT GENEVA, OCTOBER 30, 1947

(Effective date of concessions will be announced in Foreign Commerce Weekly)

FOREWORD

The following is a consolidated reproduction of the Canadian tariff items involved in the Geneva agreement. In the most-favored-nation tariff, the new rates are intended to supersede those granted under preceding trade agreements, including the 1938 trade agreement with the United States. In the preferential tariff, however, this is not the case and where lower preferential rates exist for some commodities than those negotiated at Geneva, in consequence of special action by Canada or trade agreements between Canada and other parts of the British Commonwealth, not the United Kingdom, these continue in force, and are shown, in lieu of the Geneva preferential rates, whether or not there is any import from the country enjoying the special concession.

The basis of negotiations was the preferential rate structure as it existed on July 1, 1939. During the war years, imports from the United Kingdom enjoyed particularly large preference under the provisions of Canada's War Exchange Conservation Act, in consideration of the war's effect on United Kingdom production and on Canadian dollar supplies. These special preferences ceased on December 31, 1947, but were succeeded in 1948 by temporary duty-free entry for textiles.

With respect to preferential rates in excess of 15 percent, the Canadian customs tariff makes provision for a 10-percent discount where the goods are entered without transshipment from a British port and from a country enjoying the preferential rate. That discount is almost always taken, although it cannot be considered as anything but a contingent reduction for general purposes. Consequently, rates in excess of 15 percent ad valorem are marked with a small circle (°), meaning that the nominal rate less 10 percent is probably effective. Canada agreed at Geneva to invite Parliament to abrogate this discount in the cases in which the negotiations resulted in lowering the most-favored-nation rate to the nominal preferential rate. The items in which this levelling occurs are marked with a dagger (†), and the effective preferential rate in some cases will rise if Parliament concurs in the amendment of the Tariff Act.

An asterisk (*) has been used traditionally in United States-Canada trade agreements to indicate items on which there is a seasonal tariff. An explanation of this and the important change in the seasonal system negotiated at Geneva is given on page 4. It should be noted that seasonal rates do not apply automatically; they must be announced.

Provisionally, nearly all the most-favored-nation concessions shown have applied to United States imports as from January 1, 1948.

N. o. p. means "not otherwise provided for." (x) means "trade valued at less than $500."
N. s. s. means "not separately stated." * means "seasonal tariff," cf. p. 39.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
1	Horses, cattle, sheep, goats, asses, swine and dogs, for the improvement of stock, under regulations prescribed by the Governor in Council	Free	Free	Free	Free	201	184
5	Animals, living, n. o. p.:						
	(a) Cattle—per pound	1½ cts	2 cts	Free	Free	(x)	(x)
	Ex (c) n. o. p., other than silver or black foxes	7½ p. c	20 p. c	Free	Free	147	121
6	Live hogs—per pound	1 ct	1 ct	Free	Free		
7	Meats, fresh, n. o. p.:						
	(a) Beef and veal—per pound	3 cts	6 cts	3 cts	3 cts	9	2
	Ex (a) Edible offal of beef and veal—per pound	1½ cts	4 cts	1½ cts	3 cts	14	14
	But not less than	7½ p. c		7½ p. c			
	Ex (c) Pork—per pound	1¼ cts	1¼ cts	1¼ cts	1¼ cts	2,464	2,464
Ex 8	Canned meats other than beef and pork, n. o. p.; canned poultry or game, n. o. p	20 p. c	30 p. c	Free	Free	48	7
Ex 8	Canned hams	22½ p. c	24 p. c	Free	Free	[1] 12	(x)
Ex 8	Pâtés de foie gras, foies gras, preserved, in tins or otherwise; lark pâtés	10 p. c	24 p. c	Free	Free	n. s. s.	
8a	Extracts of meat and fluid beef, not medicated	30 p. c	30 p. c	10 p. c	10 p. c	23	11
9	Poultry and game, n. o. p	15 p. c	15 p. c	12½ p. c	12½ p. c.[2]	120	113
9d	Baby chicks, n. o. p—each	2 cts	4 cts	Free	Free	9	9
10	Meats, prepared or preserved, other than canned:						
	(a) Bacon, hams, shoulders and other pork—per pound	1¾ cts	1¾ cts	Free	Free	400	400
	(b) N. o. p—per pound	2 cts	3 cts	Free	Free	43	43
12	Sausage skins or casings, not cleaned	Free	Free	Free	Free		
12a	Sausage skins or casings, cleaned	15 p. c	15 p. c	Free	Free	1,071	6
14	Tallow	17½ p. c	17½ p. c	Free	Free	41	2
15	(i) Beeswax, unrefined	Free	18 p. c.[3]	Free	15 p. c.[3]	50	26
	(ii) Beeswax, n. o. p	15 p. c	18 p. c	15 p. c	15 p. c		
Ex 15 Ex 711	Honey-comb foundations, of wax	15 p. c	18 p. c 20 p. c	15 p. c 15 p. c	15 p. c 15 p. c	n. s. s.	
16	Eggs in the shell—per dozen	3½ cts	5 cts	Free	Free	24	
16b	Eggs, egg yolk or egg albumen dried, evaporated, desiccated, or powdered, whether or not sugar or other material be added	25 p. c	25 p. c	10 p. c	10 p. c	73	66
17	Cheese—per pound	3½ cts	7 cts.[4]	1 ct	1 ct	378	74
18	Butter—per pound	12 cts	12 cts	5 cts	5 cts	2	1
19	Cocoa shells and nibs	10 p. c	10 p. c	7½ p. c	7½ p. c	n. s. s.	
20	Cocoa paste or "liquor" and chocolate paste or "liquor", not sweetened, in blocks or cakes—per pound	3 cts	4 cts	3 cts	3 cts	2	2
20a	Butter produced from the cocoa bean—per pound	2¼ cts	3 cts	Free	Free	.519	155
21	Cocoa paste or "liquor" and chocolate paste or "liquor", sweetened, in blocks or cakes, not less than two pounds in weight—per pound	4 cts	4½ cts	4 cts	4 cts	9	7

22	Preparations of cocoa or chocolate in powder form	22½ p. c.	27½ p. c. or 2½ cts. per lb.	22½ p. c.†	22½ p. c.° or 2 cts. per lb.	216	173
23	Preparations of cocoa or chocolate, n. o. p., and confectionery, coated with or containing chocolate, the weight of the wrappings and cartons to be included in the weight for duty	20 p. c.	27½ p. c.	10 p. c.	12½ p. c.	122	39
	and, per pound	2½ cts.	2½ cts.	2½ cts.	2½ cts.°		
24	Chicory, raw or green, per pound	2¼ cts.	3 cts.	2¼ cts.	2¼ cts.		
25	Chicory, kiln dried, roasted or ground, per pound	3 cts.	5 cts.	3 cts.	3 cts.	17	15
28	Coffee, green, per pound	2 cts.[5]	3 cents when imported direct from country of production; 3 cents and 10 p. c. otherwise.	Free [5]	Free when imported from country of production or from United Kingdom in bond; otherwise 2¼ cts. per lb. and 7½ p. c.	4,154	42
28a	Tea, per pound	6 cts.[6]	8 cts. direct or from United Kingdom in bond; 10 cts. otherwise.	4 cts.[6]	4 cts. direct 10 cts. other.	10,091	33
29a	When in packages weighing five pounds, each, or less, the weight of such packages to be included in the weight for duty.						
30	Pepper, unground	5 p. c.	10 p. c.	Free	Free	107	9
	Cloves, unground	10 p. c.	12½ p. c.	Free	Free	42	15
	Cinnamon, unground	12½ p. c.	12½ p. c.	Free	Free	n. s. s.	(Incl. with "n. o. p.")
	Ginger, unground	12½ p. c.	12½ p. c.	Free	Free	37	
	Spices, unground, n. o. p	12½ p. c.	12½ p. c.	Free	Free	112	34 Incl. cinnamon.
32	Nutmegs and mace, whole or unground	15 p. c.	17½ p. c.	Free	Free	44	1
34	Mustard, ground	20 p. c.	25 p. c.	12½ p. c.	17½ p. c.	331	18
35	Hops, per pound	10 cts.	10 cts.	Free	Free	338	90
39	(i) Potato starch and potato flour, per pound	1½ cts.	2 cts.	1 ct.	1 ct.	135	45
	When in packages weighing two pounds each, or less, the weight of such packages to be included in the weight for duty.						
39	(ii) Starch, and all preparations having the quality of starch, n. o. p per pound	1 ct.	1½ cts.	1 ct.	1 ct.	77	66
	When in packages weighing two pounds each, or less, the weight of such packages to be included in the weight for duty.						
39a	(i) Starch or flour of sago, cassava, or rice, per pound	1¼ cts.	1¼ cts.	¾ ct.	¾ ct.	99	49
	(ii) Rice meal, rice feed, rice polish, rice bran, rice shorts, per pound	1 ct.	1¼ cts.	¾ ct.	¾ ct.		
39c	Dextrine and combinations or preparations of starch and dextrine without admixture of foreign material, n. o. p, per pound	1 ct.	1 ct.	½ ct.	½ ct.	[7] 187	[7] 89
41	Salt, n. o. p., in bags, barrels, and other coverings, per one hundred pounds	3½ cts.	6½ cts. plus 25 p. c. of value of covering.	Free	Free	216	19
42	Salt, in bulk, n. o. p, per one hundred pounds	3 cts.	4 cts.	Free	Free	193	182
43	Condensed milk, the weight of the package to be included in the weight for duty, per pound	3¾ cts.	3¾ cts.	2½ cts.	2½ cts.	2	
43a	Powdered milk, the weight of the package to be included in the weight for duty, per pound	5 cts.	5 cts.	1 ct.	1 ct.	16	14
45	(i) Milk foods, n. o. p	20 p. c.	25 p. c.	20 p. c.†	20 p. c.†	39	38
	(ii) Prepared cereal foods, in packages not exceeding twenty-five pounds weight each	20 p. c.	25 p. c.	20 p. c.†	20 p. c.°	80	75

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
46	Prepared cereal foods, n. o. p	15 p. c	15 p. c	15 p. c	15 p. c	26	19
47	Beans, n. o. p., viz.:						
	(a) Castor beans, n. o. p	Free	1½ cts	Free	Free	n. s. s.	
	(b) Soya beans, n. o. p	Free	Free	Free	Free	144	137
	(c) Lima and Madagascar beans, dried, per pound	½ ct	1 ct	Free	Free	143	117
	(d) Red kidney beans, dried, per pound	1 ct	1½ cts	Free	Free		
	(e) N. o. p., per pound	1½ cts	1½ cts	Free	Free		
48	Peas, n. o. p., per pound	¾ ct	¾ ct	Free	Free	177	95
52	Barley, n. o. p., per bushel	7½ cts	15 cts	Free	Free	63	63
53	Cornmeal, per barrel	50 cts	50 cts	Free	Free	4,571	1,857
55	Indian corn (maize), per bushel	8 cts	10 cts	Free	Free	284	284
56	Oats, per bushel	4 cts	8 cts	Free	Free	305	[8] 260
58	Rye, per bushel	6 cts	9 cts	Free	Free	1,004	299
61	Wheat flour and semolina, per barrel	50 cts	50 cts	Free	Free	479	251
62	Rice, uncleaned, unhulled or paddy	Free	Free	Free	Free		
63	Rice, cleaned, per one hundred pounds. When in packages weighing two pounds, each, or less, the weight of such packages to be included in the weight for duty.	70 cts	70 cts	50 cts	50 cts		
64	Sago and tapioca	17½ p. c	25 p. c	12½ p. c	17½ p. c.°	75	26
65	Biscuits, not sweetened	17½ p. c	22½ p. c	12½ p. c	12½ p. c	169	99
65a	Diabetic breads and biscuits, under regulations prescribed by the Department of National Health and Welfare	7½ p. c	7½ p. c	Free	Free	1	
66	Biscuits, sweetened	25 p. c	30 p. c	20 p. c°	20 p. c°	27	19
66a	Biscuits, sweetened or unsweetened, valued at not less than 20 cents per pound, said value to be based on the net weight and to include the value of the usual retail package	20 p. c	30 p. c	Free	Free	184	
69	Straw, per ton	50 cts	$1.75	Free	Free	1	1
69b	Hay, per ton	$1.25	$1.75	Free	Free	5	5
71a	Timothy seed, per pound	½ ct	1 ct	Free	Free	227	227
71b	Clover seed, including alfalfa seed, per pound	2 cts	2¼ cts	Free	Free	121	5
72	Field and garden seeds not specified as free, valued at not less than five dollars per pound, n. o. p., in packages weighing not less than one ounce each	7½ p. c	9 p. c	5 p. c	5 p. c	17	12
72d	Millet and rape seed	7½ p. c	9 p. c	5 p. c	5 p. c	13	4
72e	Bent grass seed, not to include red-top grass seed	22½ p. c	27 p. c	15 p. c	15 p. c	1	1
73	Field seeds, n. o. p., when in packages weighing more than one pound each	7½ p. c	9 p. c	Free	Free	57	27
Ex 73	Broom corn seed, when in packages weighing more than one pound each	Free	Free	Free	Free	n. s. s.	
Ex 72	Cotton seed [9]	Free	9 p. c		Free	n. s. s.	
Ex 76b			25 p. c	Free	15 p. c		
Ex 276b			10 p. c		Free		

74	Seeds, as hereunder, when in packages weighing more than one pound each:						
	(i) Parsley and parsnip ..... per pound	2 cts	2 cts	Free	Free	59	17
	(ii) Beet, not including sugar beet ..... per pound	2 cts	3 cts	Free	Free		
	(iii) Mangel and turnip ..... per pound	2 cts	4 cts	Free	Free		
75	Seeds, as hereunder, when in packages weighing more than one pound each:						
	(i) Radish, leek, lettuce, carrot, borecole or kale ..... per pound	2 cts	3 cts	Free	Free	68	51
	(ii) Cabbage and cucumber ..... per pound	4 cts	5 cts	Free	Free		
76	Seeds, as hereunder, when in packages weighing more than one pound each:						
	(i) Tomato and pepper ..... per pound	7½ cts	10 cts	Free	Free	54	42
	(ii) Cauliflower ..... per pound	12½ cts	15 cts	Free	Free		
	(iii) Onion ..... per pound	15 cts	20 cts	Free	Free		
76a	Root, garden, and other seeds, n. o. p., when in packages weighing more than one pound each ..... per pound	2½ cts	5 cts	Free	Free	31	24
76b	Seeds, viz.: Field, root, garden, and other seeds, when in packages weighing one pound each, or less	20 p. c	25 p. c	15 p. c	15 p. c	33	16
76d	Seeds, viz.: Canary, mustard, celery, and sunflower, when in packages weighing more than one pound each, imported for use exclusively in manufacturing or blending operations	7½ p. c	9 p. c	5 p. c	5 p. c	93	39
77b	Vanilla beans, crude only	5 p. c	10 p. c	Free	Free	193	127
78	Florist stock, viz.: Palms, ferns, rubber plants (Ficus), gladiolus, cannas, dahlias, and paeonias	17½ p. c	20¼ p. c	15 p. c	15 p. c	18	5
See fo	otnotes at end of table.						
79	Florist stock, viz: Azaleas, rhododendrons, pot-grown lilacs; hydrangeas and other pot-grown plants, n. o. p.; rose stock and other stock for grafting or budding, n. o. p.; seedling carnation stock, araucarias, bulbs, corms, tubers, rhizomes and dormant roots, n. o. p.; Dwarf Polyantha rose bushes imported or purchased in bond in Canada by florists for bona fide forcing purposes in their own greenhouses prior to disposal; laurel and holly foliage, natural or preserved, whether in designs or bouquets or not	12½ p. c	15 p. c. but hydrangeas and other pot-grown plants; laurel and holly foliage chemically prepared or preserved; 13½ p. c.	Free	Free	378	30
Ex 79b	Flowers (other than orchids) and foliage, natural, cut, whether in designs or bouquets or not, n. o. p	12½ p. c	25 p. c	Free	Free	[10] 129	[10] 126
81	Trees, n. o. p., viz:						
	(a) Apple ..... each	6 cts	6 cts				
	Provided that when imported between September 15th and October 5th, inclusive, the duty shall not be more than	3 cts	3 cts	Free	Free	12	12
	(b) Pear, plum, cherry, apricot, quince ..... each	8 cts	8 cts				
	Provided that when imported between September 15th and October 5th, inclusive, the duty on cherry trees and on plum trees shall not be more than	3 cts	3 cts	Free	Free	13	13
	(c) Peach, including June buds ..... each	5 cts	5 cts	Free	Free	7	7
82	(a) Grape vines, gooseberry and currant bushes or roots ..... each	2 cts	2 cts	Free	Free	5	5
	(b) Raspberry, loganberry, and blackberry bushes or roots; rhubarb roots ..... each	1 ct	1 ct. but rhubarb roots 9/10 ct.	Free	Free	1	1

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
82	Trees, n. o. p., viz—Continued						
	(d) Rosebushes, n. o. p.....each	3 cts	3 cts	1½ cts	1½ cts	31	5
	(e) Trees, shrubs, vines, plants, roots and cuttings, commonly known as florist or nursery stock, n. o. p.	12½ p. c	17½ p. c	12½ p. c	12½ p. c	79	25
	Ex (e) Nut trees, including grafted stock, and buds and scions for grafting nut trees	Free	Free	Free	Free	n. s. s.	
83	Potatoes, as hereunder defined:						
	(a) In their natural state:						
	August 1 to June 14, inclusive	Free	Free	Free	Free	708	706
	June 15 to July 31, inclusive.....per one hundred pounds	37½ cts	37½ cts	Free	Free		
	(c) Sweet-potatoes and yams, in their natural state	Free	Free	Free	Free	180	179
84	Onions, in their natural state, the weight of the packages to be included in the weight for duty:						
	(a) Onion sets and shallots	15 p. c	30 p. c	Free	Free	228	155
	* (b) Onions, n. o. p.:						
	40 weeks.....per pound	1 ct	30 p. c. (+½ ct. per lb. 52 weeks).	Free	Free		
	Otherwise	10 p. c		Free	Free		
85	* (a) Mushrooms, fresh, the weight of the packages to be included in the weight for duty:						
	52 weeks.....per pound	3½ cts	10 p. c. (+2 cts.)	Free	Free	14	2
	Otherwise	10 p. c	10 p. c			(Includes truffles, fresh)	
	(b) Mushrooms, dried or otherwise preserved	15 p. c	15⅛ p. c	Free	Free	n. s. s.	
	(c) Truffles, fresh, dried or otherwise preserved	10 p. c	27½ p. c	Free	Free	n. s. s.	
87	Vegetables, fresh, in their natural state, the weight of the packages to be included in the weight for duty:						
	* Asparagus:						
	8 weeks.....per pound	3½ cts	10 p. c. (+4 cts. per lb. 10 weeks).	Free	Free	104	104
	Otherwise	10 p. c					
	* (b) Beans, green;						
	14 weeks.....per pound	1½ cts	10 p. c. (+1½ cts. per lb.).	Free	Free	300	299
	Otherwise	10 p. c	10 p. c				
	(c) Brussels sprouts	10 p. c	10 p. c	Free	Free	n. s. s.	
	* (d) Cabbage:						
	26 weeks.....per pound	9/10 ct	10 p. c. (+9/10 cts. per lb.).	Free	Free	285	285
	Otherwise	10 p. c	10 p. c				
	* (e) Carrots, n. o. p.:						
	26 weeks.....per pound	1 ct	10 p. c. (+9/10 cts. per lb.).	Free	Free	371	365
	Otherwise	10 p. c	10 p. c				

	Beets, n. o. p. (not sugar beets):							
	26 weeks—per pound	1 ct	10 p. c. (+1 ct. per lb.).	Free	Free	62	61
	Otherwise	10 p. c	10 p. c				
	* (f) Cauliflower:							
	20 weeks—per pound	¾ p. c	10 p. c. (+1½ cts. per lb.)	Free	Free	141	141
	Otherwise	10 p. c	10 p. c				
	Eggplant	Free	Free	Free	Free	n. s. s.	
	* (g) Celery:							
	24 weeks—per pound	1 ct	10 p. c. (+⅛ ct. per lb. 26 weeks)	Free	Free	574	569
	Otherwise	10 p. c	10 p. c				
	* (h) Cucumbers:							
	12 weeks—per pound	2¼ cts	10 p. c. (+2 cts. per lb. 20 weeks)	Free	Free	96	95
	Otherwise	10 p. c	10 p. c				
	* (i) Lettuce:							
	18 weeks—per pound	1 ct	10 p. c. (+⅛ ct. per lb.)	Free	Free	923	923
	Otherwise	10 p. c	10 p. c				
	(j) Parsley	10 p. c	10 p. c	Free	Free	n. s. s. (Included with n. o. p.)	
	* (k) Peas, green:							
	12 weeks—per pound	2 cts	10 p. c. (+2 cts. per lb.)	Free	Free	183	140
	Otherwise	10 p. c	10 p. c				
	* (l) Rhubarb:							
	10 weeks—per pound	½ ct	10 p. c. (+1 ct. per lb. 52 weeks)	Free	Free	n. s. s. (Included with n. o. p.)	
	Otherwise	10 p. c					
	(m) Spinach	10 p. c	10 p. c	Free	Free	169	169
	* (n) Tomatoes:							
	32 weeks—per pound	1½ cts	10 p. c. but not less than 1½ cts. per lb	Free	Free	1,500	889
	Otherwise	10 p. c					
	(o) Watercress	10 p. c	10 p. c	Free	Free	314	294
	Whitloof or endive	Free	Free	Free	Free	Includes also Brussels sprouts, eggplant, parsley and rhubarb.	
	(p) Artichokes, horseradish and okra	Free	Free	Free	Free		
	N. o. p	10 p. c	10 p. c	Free	Free		
89	Vegetables, prepared, in air-tight cans or other air-tight containers, the weight of the containers to be included in the weight for duty:							
	(a) Beans, baked or otherwise prepared—per pound	1½ cts	1½ cts	Free	Free	53	52
Ex	(b) Corn—per pound	1½ cts	1½ cts	Free	Free	2	2
	(c) Peas—per pound	1½ cts	1½ cts	Free	Free	2	
	(d) N. o. p	15 p. c	20 p. c	Free	Free	107	76
90a	Vegetables, dried, desicated, or dehydrated, including vegetable flour, n. o. p.	20 p. c	22½ p. c	15 p. c	15 p. c	109	76
90b	Vegetables, pickled or preserved in salt, brine, oil or in another manner, n. o. p.	22½ p. c	32½ p. c	15 p. c	15 p. c	105	39
90c	Vegetable juices, liquid mustards, soy and vegetable sauces of all kinds	20 p. c	27½ p. c	12½ p. c	15 p. c	285	45
90e	Vegetables, frozen	20 p. c	25 p. c	10 p. c	10 p. c	n. s. s.	

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
92	Fruits, fresh, in their natural state, the weight of the packages to be included in the weight for duty:						
	*(a) Apricots:						
	10 weeks.....per pound	1 ct	Mar.-Dec. 10 p. c. (+1½ cts. per lb.)	Free	Free	96	97
	Otherwise	10 p. c.	10 p. c. Mar.-Dec. 15 p. c. other.				
	*(b) Cherries:						
	7 weeks.....per pound	2 cts	10 p. c. (+3 cts. per lb.)	Free	Free	129	129
	Otherwise	10 p. c.	10 p. c.				
	*(d) Cranberries:						
	12 weeks.....per pound	1 ct	10 p. c. but not less than 1½ cts. per lb.	Free	Free	228	228
	Otherwise	10 p. c.					
	*(d) Peaches:						
	9 weeks.....per pound	1½ cts	May-Nov. 10 p. c. (+1⅜ cts. per lb.)	Free	Free	263	263
	Otherwise	10 p. c.	10 p. c. May-Nov. 15 p. c. Dec.-April.				
	*(e) Pears:						
	15 weeks.....per pound	1 ct	May-Jan., 10 p. c. (+1 ct. per lb.)	Free	Free	636	626
	Otherwise	10 p. c.	10 p. c. May-Jan. 15 p. c. Feb.-April				
	*(f) Plums:						
	10 weeks.....per pound	1 ct	May-Nov., 10 p. c. (+1 ct. per lb.)	Free	Free		
	Otherwise	10 p. c.	10 p. c. May-Nov., 15 p. c. Dec.-April				
	Prunes:						
	10 weeks.....per pound	1 ct	May-Nov., 10 p. c. (+1 ct. per lb.) 8 weeks	Free	Free	309	309
	Otherwise	10 p. c.	10 p. c. May-Nov.; 15 p. c. Dec.-April				

	*(g) Strawberries:						
	6 weeks—per pound	1⅜ cts	10 p. c. (+1⅜ cts. per lb.)	Free	Free	505	505
	Otherwise	10 p. c.	10 p. c.				
	*Raspberries and loganberries:						
	6 weeks—per pound	2 cts	10 p. c. (+2 cts. per lb.)	Free	Free	8	2
	Otherwise	10 p. c.	10 p. c.				
	(h) Berries, edible, n. o. p	10 p. c.	10 p. c.	Free	Free		
	(i) Quinces and nectarines	10 p. c.	10 p. c. June–Feb., 15 p. c. other	Free	Free	(Included with apricots)	
93	Apples, fresh, in their natural state, the weight of the packages to be included in the weight for duty:						
	May 20 to July 12, inclusive—per pound	Free	15 p. c. (+⅝ ct. per lb.)*	Free	Free	226	136
	July 13 to May 19, inclusive—per pound	¾ ct					
94	Grapes, fresh, in their natural state, the weight of the packages to be included in the weight for duty:						
	(a) Vitis Vinifera species	Free	1 ct. per lb., July-Jan.; 1½ cts. per lb., Feb.-June				
	*(b) Vitis Labrusca species:						
	15 weeks—per pound	1 ct		Free	Free	1,073	1,046
	Otherwise	10 p. c.				n. s. s.	
95	Cantaloupes* and muskmelons, the weight of the packages to be included in the weight for duty:						
	8 weeks—per pound	1¼ cts.	10 p. c. (+1¼ cts. per lb.)	Free	Free	227	227
	Otherwise	10 p. c.	10 p. c.				
95a	Melons, n. o. p—each	2 cts	2 cts	Free	Free	127	127
96	Fruits, fresh, in their natural state, n. o. p	Free	10 p. c.	Free	Free	29	27
97	Plantains, pineapples, pomegranates, guavas and mangoes	Free	Free	Free	Free	268	238
98	Bananas—per stem or bunch	50 cts	50 cts	Free	Free	2,398	1,263
99a	Plums and prunes, dried, unpitted	Free	1 ct. per pound	Free	Free	781	779
99b	Fruits, dried, desiccated, evaporated or dehydrated, n. o. p	10 p. c.	15 p. c.	Free	Free	101	92
99c	(i) Raisins—per pound	3 cts	4 cts	Free	Free	3,206	371
	When in packages weighing two pounds each, or less, the weight of such packages to be included in the weight for duty.						
	(ii) Dried currants—per pound	4 cts	4 cts	Free	Free	474	----------
	When in packages weighing two pounds each, or less, the weight of such packages to be included in the weight for duty.						
99d	Dates, dried, unpitted, in bulk—per pound	½ ct	½ ct	Free	Free	248	32
99e	Dates, n. o. p—per pound	1½ cts	1.575 cts	1 ct	1 ct	289	10
	When in packages weighing two pounds each, or less, the weight of such packages to be included in the weight for duty.						
99f	Figs, dried—per pound	½ ct	½ ct	Free	Free	219	58
	When in packages weighing two pounds each, or less, the weight of such packages to be included in the weight for duty.						
99g	Apricots, nectarines, pears, and peaches, dried, desiccated, evaporated or dehydrated	15 p. c.	22½ p. c.	Free	Free	404	395
100	Grapefruit	Free	½ ct. per lb	Free	Free	1,270	1,187
101	Oranges, n. o. p	Free	Free Dec.-July; 25 cts. per cu. ft.	Free	Free	6,212	5,842

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
101a	Lemons	Free	Free	Free	Free	1,348	1,325
103	Fruits preserved in brandy, or preserved in other spirits, and containing not more than forty percent of proof spirit in the liquid contents thereof						
	per gallon	$2.50	$2.50	$2.50	$2.50		
	and	30 p. c	60 p. c	30 p. c. °	60 p. c.°		
104	Fruits preserved in brandy, or preserved in other spirits, and containing more than forty percent of proof spirit in the liquid contents thereof						
	per gallon	$5.00	$10.00	$5.00	$10.00		
	and	30 p. c	30 p. c	30 p. c.°	30 p. c.°		
104a	Fruit pulp, other than grape pulp, not sweetened, in airtight cans or other air tight packages—per pound	1½ cts	2½ cts	Free	Free	108 (Includes sweetened pulp)	11
105	(i) Fruit pulp, with sugar, or not, n. o. p., and fruits, crushed—per pound	2 cts	2½ cts	1½ cts (passion fruit pulp free)	1½ cts	n. s. s.	
	(ii) Fruits, frozen—per pound	2 cts	2½ cts	1½ cts	1½ cts		
Ex 105b	Olives, ripe, in brine	10 p. c	10 p. c	10 p. c	10 p. c	n. s. s.	
Ex 105c							
105c	Fruits and nuts, pickled or preserved in salt, brine, oil, or any other manner, n. o. p	25 p. c	32½ p. c	20 p. c.°	20 p. c.°	18	18
105d	Jellies, jams, marmalades, preserves, fruit butters and condensed mince-meats—per pound	3¼ cts	3¼ cts	½ ct	2 cts	74	8
105e	Fruits and peels, crystallized, glacé, candied or drained; cherries and other fruits of créme de menthe, maraschino or other flavour	27½ p. c	31½ p. c	20 p. c.°	20 p. c.°	39	5
106	Fruits, prepared, in airtight cans or other airtight containers, the weight of the containers to be included in the weight for duty:						
	(a) Peaches—per pound	2½ cts	3½ cts	½ ct	½ ct	180	11
	Apricots and pears—per pound	2 cts	3 cts	Free	Free	15	3
	(b) Pineapples—per pound	2 cts	3 cts	Free	Free	779	19
	(c) N. o. p—per pound	1 ct	3 cts	Free	Free	134	90
108	Honey in the comb or otherwise, and imitations thereof—per pound	1½ cts	1½ cts	1½ cts	1½ cts	4	2
109a	Peanuts, green, in the shell or not further processed than shelled	Free	1 ct. per lb	Free	Free	986	11
109	Nuts of all kinds, n. o. p. shelled or not—per pound	1 ct					
114	*Unshelled*		*1 ct*	*1 ct*	*1 ct*	*686*	*439*
	Shelled:						
	Almonds		*3 cts*	*1 ct*	*3 cts*	*423*	*161*
	Walnuts		*3 cts*	*1 ct*	*3 cts*	*745*	*22*
	Peanuts, other than 109a		*2 cts*	*Free*	*Free*	*16*	*2*
	Other		*2 cts*	*1 ct*	*2 cts*	*651*	*254*

110	Cocoanuts.....per one hundred..	50 cts.....	75 cts. if entered direct from place of growth; $1.00 otherwise.	Free.....	Free if entered direct from place of growth; 50 cts. otherwise.	176	.....
111							
113	Cocoanut, desiccated, sweetened or not.....per pound..	3 cts.....	5 cts.....	2 cts.°.....	5 cts.°.....	40	.....
113a	Copra or broken cocoanut meat, not shredded, desiccated, or prepared in any manner.....	Free.....	¾ ct.....	Free.....	Free.....	.....	.....
Ex 114	Palm kernels.....	Free.....	Free.....	Free.....	Free.....	n. s.	s.
115	Mackerel, herring, salmon, and all other fish, n. o. p., fresh, salted, pickled, smoked, dried, or boneless.....per pound..	½ ct.....	½ ct.....	Free.....	Free.....	680	142
116	Halibut, fresh, pickled or salted.....per pound..	½ ct.....	1 ct.....	Free.....	Free.....	17	2
117	Fish livers, fresh, salted, or in preservative medium.....	Free.....	Free.....	Free.....	Free.....	156	132
120	Anchovies, sardines, sprats, or pilchards, packed in oil or otherwise, in sealed tin containers, the weight of the tin container to be included in the weight for duty:						
	(a) When weighing over twenty ounces and not over thirty-six ounces each.....per box..	3½ cts.....	4 cts.....	3½ cts.....	3½ cts.....	2	.....
	(b) When weighing over twelve ounces and not over twenty ounces each.....per box..	3 cts.....	3⅛ cts.....	2½ cts.....	2½ cts.....	7	1
	(c) When weighing over eight ounces and not over twelve ounces each per box..	2 cts.....	2⅜ cts.....	2 cts.....	2 cts.....	4	.....
	(d) When weighing eight ounces each or less.....per box..	1½ cts.....	1⅜ cts.....	1¼ cts.....	1¼ cts.....	345	
122	Herring (not including kippered herring in sealed containers) packed in oil or otherwise, in sealed containers.....	25 p. c.....	30 p. c.....	Free.....	Free.....	11	1
123	Fish, prepared or preserved, n. o. p.:						
	(i) Kippered herring in sealed containers.....	17½ p. c...	27½ p. c.....	Free.....	Free.....	14	.....
	(ii) Lobsters.....	22½ p. c...	27½ p. c.....	Free.....	Free.....	38	.....
	(iii) Shellfish, n. o. p., including oysters, n. o. p.....	22½ p. c...	27½ p. c.....	Free.....	Free.....	6	1
	(iv) Salmon	27½ p. c...	27½ p. c.....	Free.....	Free.....	8	.....
	(v) All other fish, n. o. p.....	22½ p. c...	27½ p. c.....	Free.....	Free.....	54	5
Ex 123a	Shrimps in sealed containers.....	15 p. c.....	15 p. c.....	15 p. c.....	15 p. c.....	392	351
124	Oysters, shelled, in bulk.....per gallon..	5 cts.....	5 cts.....	5 cts.....	5 cts.....	196	196
128	Oysters in the shell.....	15 p. c.....	15 p. c.....	15 p. c.....	15 p. c.....	6	6
Ex 133	Lobsters, fresh.....	Free.....	20 p. c.[11].....	Free.....	Free.....	67	3
Ex 134 Ex 135	Sugar, produced from sugar cane or beets.....	(According to the degree of polarization)				20,600	323
Ex 135b	The Government of Canada undertakes with respect to sugar dutiable under tariff items 134, 135, and 135b, not to impose rates of duty higher than those in effect on July 1, 1939, but reserves the right to revise the wording of the said tariff items, provided that under any such revised wording the over-all incidence of import duties and taxes shall not be greater than that in effect on July 1, 1939.						
139	Glucose or grape sugar, glucose syrup and corn syrup, or any syrups containing an admixture thereof, n. o. p.....per pound..	1½ cts.....	1½ cts.....	¾ ct.....	¾ ct.....	65	65
141	Sugar candy and confectionery, n. o. p., including sweetened gums, candied popcorn, candied nuts, flavoring powders, custard powders, jelly powders, sweetmeats, sweetened breads, cakes, pies, puddings and all other confections containing sugar.....	25 p. c.....	30 p. c. and ½ ct. per lb.	15 p. c.....	15 p. c. and ½ ct. per lb.	44	74

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
142	Tobacco, unmanufactured, for excise purposes under conditions of the Excise Act, subject to such regulations as may be prescribed by the Minister:						
	(a) Of the type commonly known as Turkish:						
	(i) Unstemmed—per pound	30 cts	40 cts	Free	Free	206	7
	(ii) Stemmed—per pound	40 cts	60 cts	Free	Free	1	1
	(b) N. o. p.:						
	(i) Unstemmed—per pound	20 cts	40 cts	Free	Free	1,582	1,269
	(ii) Stemmed—per pound	30 cts	60 cts	Free	Free	103	47
	Provided that the duty under this item shall be levied on the basis of "Standard leaf tobacco" consisting of ten per centum of water and ninety per centum of solid matter.						
143	Cigars, the weight of the bands and ribbons to be included in the weight for duty—per pound	$1.75	$3.50	$1.75	$3.50	36	5
	and	15 p. c	25 p. c.[13]	15 p. c	25 p. c.[13]		
143a	Cigarettes, the weight of the paper covering to be included in the weight for duty—per pound	$2.00	$3.00	$2.00	$2.00	39	10
	and	15 p. c	15 p. c	15 p. c	15 p. c		
	And in addition thereto, when weighing not more than three pounds per thousand, under all tariffs, per thousand	$2.00	$2.00	$2.00	$2.00		
144	Cut tobacco—per pound	80 cts	95 cts	80 cts	80 cts	319	60
	And in addition thereto, under all tariffs—do	15 cts	15 cts	15 cts	15 cts		
145	Manufactured tobacco, n. o. p., and snuff—do	90 cts	90 cts	75 cts	75 cts	90	1
	And in addition thereto (except on snuff), under all tariffs—do	15 cts	15 cts	15 cts	15 cts		
146	Ale, beer, porter, and stout, when imported in casks or otherwise than in bottle—per gallon [13]	35 cts	35 cts	25 cts	25 cts		
	And in addition thereto, under all tariffs—per gallon	30 cts	30 cts	30 cts	30 cts		
147	Ale, beer, porter and stout, when imported in bottles—per gallon [13]	50 cts	50 cts	15 cts	15 cts	124	7
	And in addition thereto, under all tariffs—per gallon	30 cts	30 cts	30 cts	30 cts		
	Provided, that six-quart bottles or twelve-pint bottles shall be held to contain one gallon.						
152	(i) Fruit juices, n. o. p., viz.:						
	Lime	10 p. c	25 p. c	10 p. c	12½ p. c		
	Orange	10 p. c	25 p. c	Free	Free		
	Lemon	10 p. c	25 p. c	Free	Free		
	Passion fruit	10 p. c	25 p. c	Free	Free	1,026	754
	Pineapple	10 p. c	15 p. c	Free	Free		
	Grapefruit	15 p. c	15 p. c	Free [14]	Free [14]		
	N. o. p	10 p. c	15 p. c	10 p. c	15 p. c		
152	(ii) Fruit syrups, n. o. p	10 p. c	20 p. c	10 p. c	20 p. c.[9]	n. s. s.	
152a	Papaine	5 p. c	17½ p. c	Free	12½ p. c	n. s. s.	

Ex 156	Spirituous or alcoholic liquors (subject to the provisions attaching to tariff item 156), viz.:						
	(i) Whisky.....per gallon of the strength of proof [15]	$5.00	$6.00	$4.50	$5.00	4,344	243
	And in addition thereto, under all tariffs per gallon of the strength of proof	$7.00	$7.00	$7.00	$7.00		
	(ii) Gin, n. o. p.....per gallon of the strength of proof [15]	$5.00	$10.00	$4.50	$5.00	216	
	And in addition thereto, under all tariffs per gallon of the strength of proof	$7.00	$7.00	$7.00	$7.00		
	(iii) Rum, n. o. p.....per gallon of the strength of proof [15]	$6.00	$7.00	$4.50	$5.00	425	
	And in addition thereto, under all tariffs per gallon of the strength of proof	$7.00	$7.00	$7.00	$7.00		
	(iv) Brandy.....per gallon of the strength of proof [15]	$4.00	Cognac and Armagnac $5.00, other $10.00.	$3.00	$3.00	533	
	And in addition thereto, under all tariffs, per gallon of the strength of proof [15]	$7.00	$7.00	$7.00	$7.00		
	(v) Liqueurs.....per gallon of the strength of proof [16]	$4.50	$6.00	$4.50	$5.00 (Van der Hum, $4.00)	84	
	And in addition thereto, under all tariffs, per gallon of the strength of proof [15]	$7.00	$7.00	$7.00	$7.00		
Ex 156 156b	Angostura bitters.....per gallon of the strength of proof [15]	$5.00	$10.00	$2.00	$2.00		
159	Spirits and strong waters of any kind, mixed with an ingredient or ingredients, as being or known or designated as essences, extracts, or ethereal and spirituous fruit essences, n. o. p.....per gallon [13]	$5.00	$10.00	$3.00	$5.00	24	16
	and	30 p. c	30 p. c	30 p. c.°	30 p. c.°		
160	(i) Alcoholic perfumes:						
	(a) When in bottles or flasks containing not more than four ounces each	30 p. c	60 p. c	30 p. c.†	30 p. c.°		
	(b) When in bottles, flasks or other packages, containing more than four ounces each.....per gallon [13]	$5.00	$5.00	$5.00	$5.00		
	and	30 p. c	40 p. c				
	(ii) Perfumed spirits, bay rum, cologne, and lavender waters, lotions, hair, tooth, and skin washes, and other toilet preparations containing spirits of any kind:					109	15
	(a) When in bottles or flasks containing not more than four ounces each	45 p. c	60 p. c	30 p. c.°	30 p. c.°		
	(b) When in bottles, flasks, or other packages, containing more than four ounces each.....per gallon [13]	$5.00	$5.00	$5.00	$5.00		
	and	30 p. c	40 p. c				
Ex 162	Vermouth, aperitif, and cordial wines, containing thirty-two percent or less of proof spirit, whether imported in wood or in bottles.....per gallon [13]	20 cts	80 p. c	20 cts	80 p. c.°	44	
	And in addition thereto, under all tariffs,.....per gallon	42½ cts	42½ cts	42½ cts	42½ cts		
	Provided, that six quart bottles or twelve pint bottles shall be held to contain a gallon for duty purposes under this tariff item.						

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
Ex 163	Wines of all kinds, n. o. p., including orange, lemon, strawberry, raspberry, elder and currant wines, containing twenty-four percent or less of proof spirit, whether imported in wood or in bottles.....per gallon [18]	20 cts	26 cts. grape wines, nonsparkling, 26 p. c. or less proof; other 55 cts.	20 cts	20 cts	644	3—(trade is for nonsparkling wines n. o. p. less than 40 p. c. proof).
	And in addition thereto, under all tariff, per gallon	42½ cts	42½ cts	42½ cts	42½ cts		
	Provided, that six quart bottles or twelve pint bottles shall be held to contain a gallon for duty purposes under this tariff item.						
165	Champagne and all other sparkling wines:						
	(a) In bottles containing each not more than a quart, but more than a pint (old wine measure).....per dozen bottles	$5.00	$7.44	$5.00	$7.44	91	
	And in addition thereto.....per gallon	$1.75	$1.75	$1.75	$1.75		
	(b) In bottles containing not more than a pint each, but more than one-half pint (old wine measure).....per dozen bottles	$2.50	$3.72	$2.50	$3.72	23	
	And in addition thereto.....per gallon	$1.75	$1.75	$1.75	$1.75		
	(c) In bottles containing one-half pint each or less...per dozen bottles	$1.25	$1.86	$1.25	$1.86	2	
	And in addition thereto.....per gallon	$1.75	$1.75	$1.75	$1.75		
	(d) In bottles containing over one quart each (old wine measure) per gallon	$2.50	$3.60	$2.50	$3.60	3	
	And in addition thereto, under all tariffs.....per gallon	$1.75	$1.75	$1.75	$1.75		
Ex 167	Malt, whole, crushed or ground, n. o. p., upon entry for warehouse subject to excise regulations.....per pound	½ ct	Barley malt ⅜ ct., other ½ ct.	½ ct	½ ct	3	
168	Malt flour containing less than fifty per centum in weight of malt; malt syrup or malt syrup powder, n. o. p.; extracts of malt, fluid or not; grain molasses—all articles in this item upon valuation without British or foreign excise duties, under regulations prescribed by the Minister	25 p. c	30 p. c	20 p. c.°	25 p. c.°	38	10
	and, per pound	5 cts	5 cts				
168a	Malt syrup, malt syrup powder, or other starch conversion products produced by the action of enzymes on starch, not including any such products used in the brewing of beer	25 p. c	25 p. c	20 p. c.°	20 p. c.°	257	256
						1947; new item from June 28, 1946	
169	Books, viz: Novels or works of fiction, or literature of a similar character, unbound or paper bound or in sheets, but not to include Christmas annuals, or publications commonly known as juvenile and toy books	10 p. c	10 p. c	Free	Free	26	

Ex 169 Ex 184a Ex 184b Ex 184c Ex 184d	Periodical publications, unbound or paper bound, printed and issued at regular intervals, not less frequently than four times a year, and bearing dates of issue	Free	Free	Free	Free	6,711	6,396
170	Books, periodicals and pamphlets, or parts thereof, printed, bound, unbound, or in sheets (not to include blank account books, copy books, or books to be written or drawn upon) in any other than the English language	Free	Free	Free	Free	132	34
171	Books, printed, periodicals and pamphlets, or parts thereof, n. o. p., not to include blank account books, copy books, or books to be written or drawn upon	10 p. c	10 p. c	Free	Free	2,031	1,438
Ex 172	Tourist literature issued by national or state governments or departments thereof, boards of trade, chambers of commerce, municipal and automobile associations, and similar organizations	Free	Free	Free	Free	n. s. s.	
Ex 172	Prayer books, missals, psalters, religious pictures and mottoes, not to include frames	Free	Free	Free	Free	n. s. s.	
178	Advertising and printed matter, viz: Advertising pamphlets, advertising show cards, illustrated advertising periodicals; price books, catalogues and price lists; advertising almanacs and calendars; patent medicine or other advertising circulars, fly sheets or pamphlets; advertising chromos, chromotypes, oleographs or like work produced by any process other than hand painting or drawing, and having any advertisement or advertising matter printed, lithographed or stamped thereon, or attached thereto, including advertising bills, folders and posters, or other similar artistic work, lithographed, printed or stamped on paper or cardboard for business or advertisement purposes, n. o. p.:						
	(ii) N. o. p. per pound but not less than	10 cts 25 p. c	12½ cts 27½ p. c	5 cts	5 cts	1,549	1,391
	Ex (ii) Advertising and printed matter, whether imported by mail or otherwise, when in individual packages valued at not more than $1.00 each and when not imported for sale or in a manner designed to vade payment of customs duties	Free	Free	Free	Free	84	10
179	Labels for cigar boxes, fruits, vegetables, meats, fish, confectionery or other goods or wares; shipping, price or other tags, tickets or labels, and railroad or other tickets, whether lithographed or printed, or partly printed, n. o. p.	22½ p. c	27½ p. c	17½ p. c.°	22½ p. c.°	115	93
180	(i) Photographs, chromos, chromotypes, artotypes, oleographs, paintings, drawings, pictures, engravings or prints or proofs therefrom, and similar works of art, n. o. p	20 p. c	20 p. c	12½ p. c	12½ p. c	498	428
	(ii) Decalcomania transfers of all kinds, n. o. p	20 p. c	20 p. c	12½ p. c	12½ p. c		
	(iii) Blueprints, building plans, maps, and charts, n. o. p	20 p. c	20 p. c	12½ p. c	12½ p. c	189	165
180c	Decalcomania transfers, when imported exclusively for use in the manufacture of vitreous enamelled products or of table ware of china, porcelain or semi-porcelain	9 p. c	9 p. c	Free	Free	18	11
181	Bank notes, bonds, bills of exchange, cheques, promissory notes, drafts and all similar work, unsigned, and cards or other commercial blank forms printed or lithographed, or printed from steel or copper or other plates, and other printed matter, n. o. p	22½ p. c	27½ p. c	17½ p. c.°	22½ p. c.°	598	530
181a	Pictorial post-cards, greeting cards and similar artistic cards or folders	25 p. c	30 p. c	15 p. c	20 p. c.°	602	547
184	Newspapers, unbound, n. o. p.: tailors', milliners' and mantle-makers' fashion plates when imported in single copies in sheet form with periodical trade journals	Free	Free	Free	Free	Included in Ex 169	

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
187	Albumenized and other papers and films chemically prepared for photographers' use, n. o. p.	20 p. c.	20 p. c.	Free	Free	1,032	798
187a	Hypersensitive or supersensitive panchromatic films and infrared films, unexposed, for aerial photography	10 p. c.	10 p. c.	Free	Free	3	3
187b	Sensitized negative film, one and one-eighth inches in width or over, for exposure in motion picture cameras	10 p. c.	10 p. c.	Free	Free	31	30
188	Plain basic photographic paper, baryta coated, for use exclusively in manufacturing albumenized or sensitized photographic paper	Free	Free [16]	Free	Free	92	91
189	Tubes and cones of all sizes, made of paper, adapted for winding yarns thereon	Free	Free	Free	Free	26	19
192	Tarred paper and prepared roofings (including shingles), fiberboard, strawboard, sheathing and insulation, manufactured wholly or in part of vegetable fibers, n. o. p.; blotting paper not printed nor illustrated	22½ p. c.	22½ p. c.	15 p. c.	15 p. c.	1,309	1,238
192b	Sandpaper, glass or flint paper, and emery paper or emery cloth	20 p. c.	20 p. c.	12½ p. c.	12½ p. c.	61	40
192c	Roofing and shingles of saturated felt	22½ p. c.	25 p. c.	Free	Free	3	1
192d	Electrical insulating pressborad, not less than .040 inch in thickness	12½ p. c.	12½ p. c.	Free	Free	36	21
192f	Paperboard or fiberboard, single ply, not coated nor impregnated, in rolls containing not less than five hundred square feet, when imported by manufacturers of impregnated sockling base, innersoling, welting, or similar materials, for use only in the manufacture of such materials in their own factories	7½ p. c.	10 p. c.	Free	Free	45	45
						1947; new item from June 28, 1946	
193	Paper sacks or bags of all kinds, printed or not	22½ p. c.	30 p. c.	15 p. c.	15 p. c.	135	
194	Playing cards, in packs or in sheet form, n. o. p.; cards and sheets partly lithographed or printed, for use in the manufacture of such playing cards	7 cts. per pack or equivalent	7 cts.	5 cts. but not more than 15 p. c.	5 cts. but not more than 15 p. c.	39	85
195	Paper hanging or wall paper, including borders or bordering	22½ p. c.	30 p. c.	17½ p. c.°	17½ p. c.°	132	111
197	Paper of all kinds, n. o. p.	22½ p. c.	22½ p. c.	15 p. c.	15 p. c.	2,167	1,933
197b	Wrapping paper of all kinds, not pasted, coated or embossed	22½ p. c.	25 p. c.	17½ p. c.°	17½ p. c.°	477	344
197c	(i) Cigarette paper, ungummed, in rolls	15 p. c.	15¾ p. c.	10 p. c.	10 p. c.	37	25
	(ii) Cigarette paper, ungummed, in sheets containing not less than thirty-two square inches	15 p. c.	15¾ p. c.	10 p. c.	10 p. c.	37	25
197e	Electric cable insulating paper, .0045 inch or less in thickness, and condenser tissue paper	10 p. c.	10 p. c.	Free	Free	93	92
198	Ruled and border and coated papers, boxed papers, pads not printed, papier mâché ware, n. o. p.	25 p. c.	27½ p. c.	17½ p. c.°	20 p. c.°	887	724

198b	Cigarette paper, gummed, in rolls	15 p. c	22¾ p. c	10 p. c	10 p. c	4	1
199	Papeteries, envelopes, and all manufactures of paper, n. o. p	25 p. c	27½ p. c	17½ p. c.°	20 p. c.°	1,584	1,235
199b	Containers wholly or partially manufactured from fiberboard or paperboard						
	per pound	½ ct	1 ct	½ ct	1 ct	546	504
	Provided, that in no case shall the rate of duty be less than	20 p. c	25 p. c				
199c	Waxed stencil paper for use on duplicating machines	25 p. c	27½ p. c	10 p. c	10 p. c	158	17
199d	Cigarette papers, gummed or not, in tubes, booklets or packets	20 p. c	22¾ p. c	17½ p. c.°	17½ p. c.°	478	
199f	Hand-made papers, not to include mould-made deckle-edge papers, valued at not less than 40 cents per pound wholesale	22½ p. c	22½ p. c	10 p. c	10 p. c	2	
199g	Duplex backing papers or wrappers including those printed and/or skived for use in the packaging of photographic roll films; inter-leaving and wrapping paper, black, green, or red, for packaging flat photographic films and photographic papers; when imported by manufacturers of photographic films and photographic papers for use in their own factories in the packaging of such films and papers	12½ p. c	12½ p. c	5 p. c	5 p. c	126	126
200	Pulp of wood, of straw or of any other vegetable fibre	Free	Free	Free	Free	812	808
203a	Chemical components composed of two or more acids or salts soluble in water, adapted for dyeing or tanning	10 p. c	10 p. c	Free	Free	397	250
203b	Aniline and coal-tar dyes, adapted for dyeing, in bulk or in packages of not less than one pound weight	10 p. c	10 p. c	Free	Free	3,965	2,070
204	Drugs, such as barks, flowers, roots, beans, berries, balsams, bulbs, fruits, insects, grains, gums and gum resins, herbs, leaves, nuts, fruit and stem seeds—which are not edible and which are in a crude state and not advanced in value by refining or grinding, or any other process of manufacture, n. o. p	Free	Free	Free	Free	159	124
205	Roots, medicinal, viz: Alkanet, crude, crushed or ground; aconite, calumba, folia digitalis, gentian ginseng, jalap, ipecacuanha, iris, orris-root, liquorice, sarsaparilla, squills, taraxacum, rhubarb and valerian, unground	Free	Free	Free	Free	14	7
206b	Dextrose (glucose) solutions, prepared for parenteral administration in therapeutic treatments; component materials and articles to be used in making such preparations	Free	Free	Free	Free	28	28
Ex 208	Sulphur and brimstone, crude or in roll or flour	Free	Free	Free	Free	2,454	2,453
Ex 208	Cyanide of sodium	Free	Free	Free	Free	926	64
Ex 208	Sulphate of ammonia	Free	Free	Free	Free	95	35
Ex 208	Iodine, crude	Free	Free	Free	Free	90	90
208a	Chloride of lime and hypochlorite of lime:						
	1. When in packages of not less than twenty-five pounds weight each per one hundred pounds	15 cts	15 cts	Free	Free	27	19
208c	Dehydrated sulphate of copper for agricultural or spraying purposes	Free	Free	Free	Free	n. s. s. (Included with 208m)	
208e	Cresylic acid and compounds of cresylic acid, used in the process of concentrating ores, metals, or minerals, n. o. p	15 p. c	15 p. c	Free	Free	7	Negligible
208h	Ethylene glycol, when imported by manufacturers for use exclusively in the manufacture of antifreezing compounds or of explosives, in their own factories	Free	Free	Free	Free	1,490	1,445
208j	(i) Nitrate of ammonia, when imported for use in the manufacture of nitrous oxide	10 p. c	10 p. c	Free	Free	459	7
	(ii) Nitrate of ammonia, n. o. p	25 p. c	25 p. c	Free	Free		
	(iii) Sal ammoniac	25 p. c	25 p. c	Free	Free	112	19
208l	Bichloride of tin and tin crystals	10 p. c	10 p. c	Free	Free	23	21
208m	Sulphate of copper (blue vitriol)	10 p. c	10 p. c	Free	Free	234	24
208n	Sulphate of iron (copperas)	10 p. c	10 p. c	Free	Free	11	7

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
208o	Cream of tartar in crystals and tartaric acid crystals	10 p. c	10 p. c	Free	Free	319	50
208q	Oxalic acid	10 p. c	20 p. c	Free	Free	30	18
208r	Oxide of tin or of copper	15 p. c	15 p. c	Free	Free	61	11
208s	Sulphate of zinc and chloride of zinc	20 p. c	20 p. c	Free	Free	14	9
208t	All chemicals and drugs, n. o. p., of a kind not produced in Canada	15 p. c	17½ p. c	Free	Free	2,585	1,836
Ex 208t	Bicarbonate of soda	12½ p. c	12½ p. c	Free	Free	270	265
Ex 208t	Butyl alcohol, n. o. p	20 p. c	25 p. c	Free	Free	84	84 (Incl. 208v)
208u	Xanthates and sulpho-thio-phosphoric (dithio-phosphoric) compounds, for use in the process of concentrating ores, metals, or minerals	Free	Free	Free	Free	784	777
208v	Methyl ethyl ketone, n. o. p.,[17] and isopropyl acetate	25 p. c	25 p. c	Free	Free	(Included in 208t)	
208w	Theobromine, crude, and dimethyl sulphate	Free	Free	Free	Free	114	67
209c	Bichromate of potash, crude; red and yellow prussiate of potash	15 p. c	15 p. c	Free	Free	28	28
210	(i) Peroxide of soda; silicate of soda, dry or in water solution; sulphide of sodium; nitrite of soda, arseniate, binarseniate, bisulphite, and stannate of soda; prussiate of soda	12½ p. c	15 p. c	Free	Free	276	273
	(ii) Bichromate, sulphite, and chlorate of soda	12½ p. c	12½ p. c	Free	Free	255	218
210d	Sodium, sulphate of, crude, or salt cake	¼ ct per pound	⅜ ct	⅛ ct	⅛ ct	74	27
210e	Nitrate of soda or cubic nitre	Free	Free	Free	Free	1,149	933
212	Sulphate of alumina or alum cake; and alum in bulk, ground or unground, but not calcined	10 p. c	15 p. c	Free	Free	781	663
215	Stearic acid, n. o. p	12½ p. c	17½ p. c	Free	Free	170	17
216	Acids, n. o. p., of a kind not produced in Canada	15 p. c	20 p. c	Free	Free	n. s. s.	
216d	Phthalic anhydride, adipic, abietic, maleic, and succinic acids, hexamethylene diammonium adipate, hexamethylene diammonium sebacate, caprolactam, and ethylene glycol, when imported by manufacturers of synthetic resins, for use exclusively in the manufacture of synthetic resins, in their own factories [18]	Free	Free	Free	Free	91	80
218	Acid phosphate, not medicinal	25 p. c	25 p. c	Free	Free	53	48
219	(i) Solutions of peroxide of hydrogen, n. o. p	22½ p. c	22½ p. c	12½ p. c	12½ p. c	20	20
	(ii) Solutions of hydrogen peroxide containing twenty-five per centum or more by weight of hydrogen peroxide	22½ p. c	22½ p. c	Free	Free		
219a	Nonalcoholic preparations or chemicals for disinfecting, or for preventing, destroying, repelling, or mitigrating fungi, weeds, insects, rodents, or other plant or animal pests, n. o. p.:						
	(i) When in packages not exceeding three pounds each, gross weight	12½ p. c	20 p. c.[19]	Free	Free	67	35
	(ii) Otherwise	7½ p. c	7½ p. c	Free	Free	1,090	854
219b	Formaldehyde, containing not more than fifteen per centum of alcohol	Free	Free	Free	Free	85	83
219d	Sulphuric ether; chloroform, n. o. p.; preparations of vinyl ether for anesthetic purposes	20 p. c	20 p. c	Free	Free	70	61

220	All medicinal and pharmaceutical preparations, compounded of more than one substance, including patent and proprietary preparations, tinctures, pills, powders, troches, lozenges, filled capsules, tablets, syrups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences and oils, n. o. p.:						
	(i) When dry	20 p. c	20 p. c	17½ p. c.°	17½ p. c.°	1,688	977
	(ii) Liquid, when containing not more than two and one-half per centum of proof spirit	22½ p. c	27½ p. c	17½ p. c.°	20 p. c.°	550	345
	Provided, also, that drugs, pill-mass and preparations, not including pills or medicinal plasters, recognized by the British or United States pharmacopoeia, the Canadian Formulary or the French Codex as official, shall not be held to be covered by this item.						
220a	Chemical preparations, compounded of more than one substance, n.o.p.:						
	(i) When dry	20 p. c	20 p. c.[20]	15 p. c	15 p. c.[20]	n. s. s. (included with 220.)	
	Liquid containing not more than two and one-half per centum of proof spirit	20 p. c		15 p. c			
	(ii) All others	25 p. c	30 p. c.[20]	25 p. c.†	30 p. c.[20]		
	Provided that any article in this item containing more than forty percent of proof spirit shall be rated for duty at ... per gallon [15] and	$3.00 30 p. c	$3.00 30 p. c	$3.00 30 p. c.°	$3.00 30 p. c.°		
Ex 225	Carnauba wax	Free	7½ p. c	Free	5 p. c	n. s. s.	
228	(i) Toilet soap, n. o. p	22½ p. c	29¼ p. c	15 p. c	20 p. c.°	137	47
	(ii) Soap powders, powdered soap, mineral soap, and soap, n o. p	20 p. c	25 p. c	15 p. c		103	87
229	Soap, common or laundry ... per one hundred pounds	$1.50	$1.50	50 cts	50 cts	282	257
230	Castile soap, the weight of the cartons and wrappings to be included in the weight for duty ... per pound	1 ct	2 cts	Free	Free	39	3
231b	Gelatine, edible, when imported for use exclusively in the manufacture of capsules for the manufacture or compounding of medicinal and pharmaceutical preparations	Free	5 p. c	Free	Free	48	45
232	(i) Glue, n. o. p	22½ p. c	25 p. c	15 p. c	17½ p. c	(1947) 67	(1947) 62
	and, per pound	5 cts	5 cts	2 cts.°			
	(ii) Gelatine, n. o. p	22½ p. c	25 p. c. and 5 cts	15 p. c	2 cts.°	(1947) 10	(1947) 8
232b	Vegetable glue	27½ p. c	35 p. c	10 p. c	10 p. c	48	36
232c	Gelatine, edible	25 p. c	35 p. c	5 p. c	5 p. c	495	31
232f	Mucilage and adhesive paste	20 p. c	25 p. c	15 p. c	15 p. c	38	31
	and, per pound	2½ cts	2½ cts	1½ cts.°	1½ cts.°		
234	Perfumery, including toilet preparations, non-alcoholic, viz: Hair oils, tooth and other powders and washes, ponatums, pastes and all other perfumed preparations, n. o. p., used for the hair, mouth or skin	25 p. c	30 p. c	15 p. c	15 p. c	424	24
236	Surgical dressings, antiseptic or aseptic, including absorbent cotton, lint, lamb's wool, tow, jute, oakum, woven fabric of cotton weighing not more than seven and one-half pounds per one hundred square yards, whether imported singly or in combination one with another, but not stitched or otherwise manufactured; surgical trusses and suspensory bandages of all kinds; sanitary napkins, and abdominal supports	20 p. c	20 p. c	10 p. c	10 p. c	318	141
238a	Manufactures of pyroxylin plastics, or of which pyroxylin plastic is the component of chief value, n. o. p	25 p. c	27½ p. c	10 p. c	10 p. c	402	381
Ex 238a	Cinematograph or moving picture films, negatives, n. o. p	10 p. c	27½ p. c	10 p. c	10 p. c	Moving picture films, negatives, not reported separately.	

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
238e	Regenerated cellulose, and cellulose acetate, transparent, in sheets, not printed, and manufactures of regenerated cellulose or of cellulose acetate, n. o. p	25 p. c	30 p. c	20 p. c.°	20 p. c.°	374	312
239	Lamp black, carbon black, ivory black and bone black	Free	Free	Free	Free	540	532
240	Ultramarine blue, dry or in pulp; whiting or whitening; Paris white and gilders' whiting; blanc fixe; satin white	10 p. c	10 p. c	Free	Free	244	127
241a	Litharge, n. o. p	15 p. c	15 p. c	Free	Free	155	89
242	Dry red lead· orange mineral· antimony oxide, titanium oxide, and zinc oxide such as zinc white and lithopone; white pigments containing not less than 14 percent by weight of titanium dioxide	12½ p. c	15 p. c	Free	Free	2,051	938
243	Dry white lead	20 p. c	20 p. c	15 p. c	15 p. c	1	1
244	White lead ground in oil	25 p. c	25 p. c	20 p. c.°	20 p. c.°	2	2
245	Ochres, ochrey earths, siennas and umbers	15 p. c	15 p. c	5 p. c	5 p. c	57	41
246	Oxides, fireproofs, rough stuff, fillers, laundry blueing, and colours, dry, n. o. p	17½ p. c	20 p. c	12½ p. c	12½ p. c	994	745
246b	Stains and oxides, valued at not less than 20 cents per pound, for use exclusively as colouring constituents in the manufacture of vitreous enamels and pottery glazes; finely divided metals or compounds of metals, whether dry, or suspended or dissolved in a liquid, for use exclusively in the manufacture of tableware of china, porcelain or semi-porcelain	20 p. c	20 p. c	Free	Free	55	13
247	Liquid fillers, anti-corrosive and anti-fouling paints, and ground and liquid paints, n. o. p	20 p. c	25 p. c	17½ p. c.°	17½ p. c.°	305	255
247a	(i) Artists' and school children's colours; fitted boxes containing the same	15 p. c	25 p. c	Free	Free	86	17
	(ii) Artists' brushes· pastels, of a value of one cent per stick, or over· artists' canvas, coated and prepared for oil painting	22½ p. c	27½ p. c	Free	Free	20	2
248	Paints and colours, ground in spirits, and all spirit varnishes and lacquers, n. o. p.	per gallon [13] 85 cts	85 cts	75 cts	75 cts	59	52
249	Varnishes, lacquers, japans, japan driers, liquid driers, and oil finish, n. o. p.	per gallon [13] 15 cts	15 cts	15 cts	15 cts	190	177
		and 15 p. c	20 p. c	5 p. c	10 p. c		
250	Paris green, dry	7½ p. c	7½ p. c	Free	Free	4	----
252	Shoe blacking; shoemakers' ink; shoe, harness and leather dressing, and knife or other polish or composition, n.o.p	17½ p. c	22½ p. c	12½ p. c	12½ p. c	476	312
253	Putty of all kinds	22½ p. c	27½ p. c	17½ p. c.°	17½ p. c.°	13	8
254	Gums, viz:						
	(i) Copal, damar, benzoin, Pontianac, nattakuching	Free	10 p. c	Free	Free	188	86
	(ii) Barberry, elemi, gedda, Senegal, tragacanth, mastic and sandarac	Free	10 p. c	Free	Free	69	65
	(iii) Australian and kauri; lac, crude, seed, button, stick and shell; ambergris; gums and blends consisting wholly or in chief part of gums, n.o.p	10 p. c	10 p. c	Free	Free	353	299
256	Printing ink	15 p. c	17½ p. c	12½ p. c	12½ p. c	247	174
259a	Sesame seed oil, crude	22½ p. c	22½ p. c	Free	Free	6	3

261	Turpentine, spirits of	Free	Free	Free	Free	420	412
262	Olive oil, n.o.p.	10 p. c	17 p. c	Free	Free	353	7
263	Compounds of tetraethyl lead, in which tetraethyl lead is the preponderant constituent by weight	5 p. c	5 p. c	Free	Free	2,927	2,927
264	(i) Essential oils, natural, viz: Geranium, rose, ylang-ylang, lemon, bergamot, orange, mandarin, citronella, clove and lemon grass	Free	7½ p. c	Free	Free	n.s.s in 1939	(i) 1946 imports lemon and orange oil only, total $321,000; from U.S. $257,000.
	(ii) Essential oils, natural and synthetic, n.o.p.; essential oils, natural and synthetic, containing other nonalcoholic material, n.o.p., for use in the manufacture of products or preparations for medicinal, flavouring, toilet, or other purposes, under such regulations as the Minister may prescribe	7½ p. c	7½ p. c	Free	Free		(ii) 1946 imports total $3,240,000; from U. S. $2,947,000.
264a	Menthol, natural or synthetic	Free	5 p. c	Free	Free	92	41
265	Oil, whale, including spermaceti	15 p. c	30 p. c	12½ p. c	12½ p. c	58	41
265a	Fish oils, n. o. p.	20 p. c	20 p. c	12½ p. c	12½ p. c	142	131
265b	Cod liver oil, crude or refined	15 p. c	15 p. c	Free	Free	380	102
265c	Halibut liver oil, crude or refined	20 p. c	20 p. c	Free	Free	16	8
Ex 266	China wood oil	Free	Free	Free	Free	908	859
267b	Petroleum tops; blends of petroleum tops or petroleum products with crude petroleum; all the foregoing .7249 specific gravity (63.7 A. P. I.) or heavier, at 60 degrees Fahrenheit, when imported by oil refiners to be refined in their own factories per gallon	1 ct	1 ct	Free	Free	(1947) 1,250	
272	Refined petroleum jellies and oils, for toilet, medicinal, edible, or similar purposes	20 p. c	20 p. c	15 p. c	15 p. c	375	272
Ex 273	Asphalt or asphaltum, solid	10 p. c	10 p. c	Free	Free	n. s. s.	
274	Petroleum coke	Free	Free	Free	Free	963	963
Ex 276b Ex 277 Ex 278b Ex 278c	Vegetable oils, crude, when imported to be refined for edible purposes, viz: Cotton seed, palm and palm kernel, peanut and cocoanut	10 p. c	10 p. c	Free	Free	(Peanut oil only separately enumerated—total $1,624,534 of which U. S. none.)	
Ex 277	Shea butter	10 p. c	10 p. c	Free	Free	n. s. s.	
278e Ex 208t Ex 711	Castor oil	Free	Free 17½ p. c 20 p. c	Free	Free Free 15 p. c	174	49

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
Ex 281	Fire brick containing not less than ninety percent of silica; magnesite fire brick or chrome fire brick; other fire brick valued at not less than one hundred dollars per one thousand, rectangular shaped, the dimensions of each not to exceed one hundred and twenty-five cubic inches, but not including fire brick made substantially of silicon carbide and/or fused alumina, for use exclusively in the construction or repair of a furnace, kiln, or other equipment of a manufacturing establishment	Free	Free	Free	Free	1,154	1,135
281a	Fire brick, n. o. p., of a class or kind not made in Canada, for use exclusively in the construction or repair of a furnace, kiln, or other equipment of a manufacturing establishment	Free	Free	Free	Free	494	464
281b	Fire brick, n. o. p.	15 p. c.	15 p. c.	5 p. c.	5 p. c.	841	694
282	Building brick and paving brick	15 p. c.	15 p. c.	12½ p. c.	12½ p. c.	34	34
282a	Manufactures of clay or cement, n. o. p.	17½ p. c.	20 p. c.	12½ p. c.	12½ p. c.	141	129
284	(i) Drain pipes, sewer pipes and earthenware fittings therefor, chimney linings or vents, chimney tops and inverted blocks, glazed or unglazed, n. o. p.	22½ p. c.	30 p. c.	15 p. c.	20 p. c.°	16	7
	(ii) Earthenware tiles, n. o. p.	25 p. c.	30 p. c.	15 p. c.	20 p. c.°	124	17
284a	Earthenware tiles, for roofing purposes	20 p. c.	32½ p. c.	Free	Free	11	10
285	Tiles or blocks of earthenware or of stone prepared for mosaic flooring	20 p. c.	27½ p. c.	15 p. c.	15 p. c.	56	13
286	Earthenware and stoneware, viz: Demijohns, churns, or crocks, n. o. p.	20 p. c.	30 p. c.	20 p. c.†	20 p. c.°	8	7
287	All tableware of china, porcelain, semiporcelain, or white granite, but not to include tea-pots, jugs and similar articles of the type commonly known as earthenware	25 p. c.	35 p. c.	Free	Free	3,023	50
288	Stoneware and Rockingham ware and earthenware, n. o. p.	25 p. c.	35 p. c.	17½ p. c.°	20 p. c.°	402	124
288a	Chemical stoneware composed of a nonabsorbent vitrified body specially compounded to resist acids or other corrosive reagents	20 p. c.	20 p. c.	Free	Free	14	9
288b	Hand forms of porcelain, when imported by manufacturers for use exclusively in the manufacture of rubber gloves in their own factories	20 p. c.	35 p. c.	Free	Free	5	5
289	Baths, bathtubs, basins, closets, closet seats and covers, closet tanks, lavatories, urinals, sinks, and laundry tubs of earthenware, stone, cement, clay or other material, n. o. p.	25 p. c.	27½ p. c.	15 p. c.	15 p. c.	148	80
Ex 296	Cliff, chalk, china or Cornwall stone, ground or unground	Free	Free	Free	Free	23	3
Ex 296	Mica schist	Free	Free	Free	Free	n. s. s.	
Ex 296b	Magnesite, dead-burned or sintered	15 p. c.	27½ p. c.	15 p. c.	20 p. c.°	37	[1] 24
Ex 296b	Magnesium carbonate, basic or otherwise, excepting crude rock	20 p. c.	27½ p. c.	20 p. c.†	20 p. c.°	52	10
296c	Magnesium carbonate, imported for use in the compounding or manufacture of rubber products	20 p. c.	20 p. c.	Free	Free		
296d	Feldspar, ground but not further manufactured	15 p. c.	15 p. c.	Free	Free	10	10
296e	Magnesite, calcined, not further manufactured than ground, when imported by manufacturers of insulating materials for use exclusively in the manufacture of such insulating materials, in their own factories	Free	Free	Free	Free	17	7
297	Silex or crystallized quartz, ground or unground	Free	Free	Free	Free	61	60
300	Crucibles, n. o. p.,[22] and covers therefor	15 p. c.	15 p. c.	Free	Free	100	41

Ex 305	Marble, rough, not hammered or chiseled	10 p. c	12½ p. c	10 p. c	10 p. c	20		16
306	(i) Marble, sawn or sand rubbed, not polished	10 p. c	20 p. c	Free	Free	33		18
	(ii) Granite, sawn; paving blocks of stone: flagstone and building stone, other than marble or granite, sawn on not more than two sides	15 p. c	20 p. c	Free	Free	20		16
306c	Marble, not further manufactured than sawn, when imported by manufacturers of tombstones to be used exclusively in the manufacture of such articles, in their own factories	10 p. c	15 p. c	Free	Free	11		11
Ex 308	Manufactures of alabaster, n. o. p	22½ p. c	22½ p. c	20 p. c.°	20 p. c.°	n. s. s.		
312	Asbestos in any form other than crude, and all manufactures thereof, n. o. p.	12½ p. c	20 p. c	12½ p. c	15 p. c	856		525
312a	Asbestos in any form other than crude, and all manufactures thereof, when made from crude asbestos of British Commonwealth origin, n. o. p	12½ p. c	20 p. c	Free	Free			
313	Plumbago, not ground or otherwise manufactured	7½ p. c	7½ p. c	Free	Free	13		8
314	Plumbago, ground, and manufactures of, n. o. p., and foundry facings of all kinds	22½ p. c	22½ p. c	15 p. c	15 p. c	87		67
315	Carbons or carbon electrodes over three inches in circumference or outside measurement and not exceeding thirty-five inches in circumference or outside measurement; carbons of a class or kind not produced in Canada, when imported for use in the manufacture of dry batteries and dry cells	Free	Free	Free	Free	316		315
316	Electric light and arc carbons, pointed or not, and contact carbons, n. o. p	25 p. c 10 cts	32½ p. c and, per pound 20 cts.	22½ p. c.°	22½ p. c.°	2		2
316a	Incandescent lamp bulbs for use in the manufacture of incandescent lamps; glass tubing for use in the manufacture of incandescent lamps, vials and ampoules; glass tubing, n. o. p., in straight lengths of not less than three feet; mantle stocking for gas light	5 p. c	6¾ p. c	Free	Free	550		549
317	Glass cut to size, adapted for use in the manufacture of dry plates for photographic purposes, when imported by the manufacturers of such dry plates for use exclusively in the manufacture thereof in their own factories	Free	Free	Free	Free	2		2
318	Common and colourless window glass	10 p. c	15 p. c	Free	Free	1,160		11
319	Glass, in sheets, and bent plate glass, n. o. p	20 p. c	25 p. c	Free	Free	419		31
320	Plate glass, not bevelled, in sheets or panes not exceeding seven square feet each, n. o. p	10 p. c	20 p. c	Free	Free	494		368
321	Plate glass, not bevelled, in sheets or panes, exceeding seven square feet each, and not exceeding twenty-five square feet each, n. o. p	20 p. c	20 p. c	Free	Free	207		104
322	Plate glass, n. o. p	25 p. c	30 p. c	17½ p. c.°	17½ p. c.°	356		89
323	Mirrors of glass, and silvered glass, bevelled or not and framed or not, n. o. p	22½ p. c	30 p. c	20 p. c.°	20 p. c.°	135		94
325	Stained or ornamental glass windows	15 p. c	27½ p. c	15 p. c	20 p. c.°	3	(X)	
326	(i) Demijohns or carboys, bottles, flasks, phials, jars and balls, of glass, not cut, n. o. p.; lamp chimneys of glass, n. o. p.; decanters and machine-made tumblers of glass, not cut nor decorated, n. o. p	22½ p. c	27½ pl c	15 p. c	15 p. c	1,226		1,049
	(ii) Glass tableware, n. o. p., and illuminating glassware, n. o. p	22½ p. c	25 p. c	10 p. c	10 p. c	1,019		‡ 632
	(iii) Opal glassware, cut glass tableware and cut glassware, n. o. p	22½ p. c	25 p. c	10 p. c	10 p. c			
326a	Manufactures of glass, n. o. p	17½ p. c	17½ p. c	10 p. c	10 p. c	748		596
326e	Articles of glass, not plate or sheet, designed to be cut or mounted; articles of glassware, when imported by manufacturers of silverware to be used in receptacles made of or electroplated with precious metals or to be equipped with tops made of or electroplated with precious metals, in their own factories	Free	Free	Free	Free	216		138
326g	High thermal shock resisting glassware	15 p. c	15 p. c	Free	Free	524		517
327	Spectacles; eyeglasses, and ground or finished spectacle or eyeglass lenses, n. o. p	22½ p. c	24¾ p. c	20 p. c.°	20 p. c.°	81		56
330	Antimony, or regulus of, not ground, pulverized or otherwise manufactured	Free	Free	Free	Free	27		12

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
339a	Lead capsules for bottles	25 p. c.	27½ p. c	Free	Free	79	1
339b	Collapsible tubes of lead or tin or lead coated with tin	27½ p. c.	27½ p. c	10 p. c	10 p. c	65	41
340	Type for printing, including chases, quoins and slugs, of all kinds	17½ p. c.	17½ p. c	7½ p. c	7½ p. c	48	41
341	Babbit metal and type metal, in blocks, bars, plates and sheets	20 p. c	20 p. c	10 p. c	10 p. c	18	8
345	Zinc dust, strip and sheets; zinc plates for marine boilers; sal ammoniac skimmings and seamless drawn tubing of zinc	Free	Free	Free	Free	654	551
346	Zinc, manufactures of, n. o. p	17½ p. c	20 p. c	15 p. c	15 p. c	283	279
346a	Zinc slugs or discs, when imported by manufacturers of electric dry batteries for use in the manufacture of seamless cups or shells for such batteries, in their own factories	Free	Free	Free	Free	60	60
348c	Brass scrap and brass in blocks, ingots or pigs: copper in bars or rods, not less than six feet in length, unmanufactured, n. o. p., copper in strips, sheets or plates, not polished, planished or coated; brass or copper tubing, in lengths not less than six feet, and not polished, bent or otherwise manufactured	10 p. c	10 p. c	5 p. c	5 p. c	314	261
350	Wire of all metals and kinds, n. o. p	20 p. c	30 p. c	10 p. c	10 p. c	143	121
351	Wire, single or several, covered with any material, including cable so covered, n. o. p	20 p. c	27½ p. c	20 p. c.†	20 p. c.°	147	132
351b	Wire cloth, or woven wire of brass or copper	20 p. c	22½ p. c	17½ p. c.°	17½ p. c.°	36	19
352	Brass and copper nails, tacks, rivets and burrs or washers; bells and gongs, n. o. p.; and manufactures of brass or copper, n. o. p	20 p. c	24¾ p. c	20 p. c.†	20 p. c.°	2,907	2,610
Ex 352 Ex 362c Ex 432d Ex 446a Ex 506	Metal parts in and degree of manufacture, coated or not, and wooden parts in the rough, when imported by manufacturers of spools, quills, pirns, bobbins, and shuttles, for use in the manufacture of such aritlces, in their own factories	10 p. c	10 p. c	10 p. c	10 p. c	35	34
353	Aluminum and alloys thereof, crude or semifabricated:						
	(i) Pigs, ingots, blocks, notch bars, slabs, billets, blooms, and wire bars, per pound	2 cts.[34]	27½ p. c	Free	Free	90	44
	(ii) Bars, rods, plates, sheets, strips, circles, squares, discs and rectangles, per pound	3 cts.[34]	27½ p. c	Free	Free	790	293
	(iii) Angles, channels, beams, tees and other rolled, drawn or extruded sections and shapes	22½ p. c	27½ p. c	Free	Free	60	38
	(iv) Wire and cable, twisted or stranded or not, and whether reinforced with steel or not	22½ p. c	27½ p. c	Free	Free	6	----
	(v) Pipes and tubes	22½ p. c	27½ p. c	Free	Free	52	25
	(vi) Leaf, n. o. p., or foil, less than .005 inch in thickness, plain or embossed, with or without backing aluminum powder	30 p. c	30 p. c	Free	Free	249	113
353a	(i) Aluminum leaf, less than .005 millimetre in thickness	Free	Free	Free	Free	2	1
	(ii) Aluminum scrap	Free	Free	Free	Free	18	----
	Provided, that nothing shall be deemed to be aluminum scrap except waste or refuse aluminum, fit only to be remelted.						
354	Manufactures of aluminum, n. o. p	22½ p. c	27½ p. c	15 p. c	15 p. c	859	817

354a	Kitchen or household hollow ware of aluminum, n. o. p.	22½ p. c.	27½ p. c.	20 p. c.°	20 p. c.°	117	100
357	Britannia metal, nickel silver, Nevada and German silver, manufactures of, now plated, n. o. p.	25 p. c.	25 p. c.	15 p. c.	15 p. c.	170	156
361	Gold and silver leaf; Dutch or schlag metal leaf; brocade and bronze powders	30 p. c.	30 p. c.	15 p. c.	15 p. c.	71	17
362	Articles consisting wholly or in part of sterling or other silverware, n. o. p.; manufactures of gold or silver, n. o. p.	27½ p. c.	32½ p. c.	17½ p. c.°	20 p. c.°	307	56
362a	Metal parts, electro-plated, for loose-leaf binders	17½ p. c.	25 p. c.	17½ p. c.†	20 p. c.°	28	28
362b	Toilet articles of all kinds, including atomizers, brushes, buffers, button hooks, combs, cuticle knives, hair receivers, hand-mirrors, jewel boxes, manicure scissors, nail files, perfume bottles, puff jars, shoe horns, trays and tweezers, of which the manufactured component material of chief value is sterling silver	30 p. c.	33¼ and 37½ p. c.	17½ p. c.°	17½ p. c.°	26	2
362c	Nickel-plated ware, gilt or electro-plated ware, n. o. p.	22½ p. c.	30 p. c.	15 p. c.	17½ p. c.°	2,151	1,657
364	Diamond dust or bort and black diamonds, for borers	Free	Free	Free	Free	4,130	4,075
365a	Findings of metal, not plated or coated, including stampings, trimmings, spring-rings, bolt-rings, clasps, snaps, swivels, vest chain bars, joints, catches, pin tongues, buckle tongues, coil pins, clip actions, settings and eyepins, when imported by manufacturers of jewelery or ornaments for the adornment of the person, for use exclusively in the manufacture of such articles, in their own factories	20 p. c.	25 p. c.	15 p. c.	15 p. c.	90	88
365b	Wire or strip, viz.: Gold, gold-filled, silver, silver-filled, brass or nickel silver, knurled, twisted, figured or with ornamental design rolled or drawn thereon and wire of nickel silver, plain, in coil or otherwise, when imported by manufacturers of jewelery or ornaments for the adornment of the person, for use exclusively in the manufacture of such articles, in their own factories	15 p. c.	20 p. c.	Free	Free	2	2
366	Watches of all kinds	30 p. c.	30 p. c.	20 p. c.°	20 p. c.°	228	20
	but not less than ..... each	40 cts	40 cts				
366a	Watch actions and movements, finished or unfinished	15 p. c.	15 p. c.	Free	Free	869	128
	but not less than ..... each	40 cts	40 cts				
366b	Parts of watch movements, finished or unfinished	15 p. c.	15 p. c.	Free	Free	183	136
	Provided the duty on plates designed to hold in place four or more wheels or other moving parts shall be not less than ..... per plate	5 cts	5 cts				
367	Watch cases, and parts thereof, finished or unfinished	25 p. c.	32½ p. c.	15 p. c.	20 p. c.	298	273
368	Clocks, time recorders, clock movements, clock work mechanisms, and clock cases	30 p. c.	30 p. c.	15 p. c.	15 p. c.	329	245
	but not less than ..... each	40 cts	40 cts				
369	Parts of clock movements or of clockwork mechanisms, finished or unfinished, not including plates	25 p. c.	25 p. c.	10 p. c.	10 p. c.	177	158
370	Copper rollers, and stones, used in the printing of textile fabrics or wallpaper	10 p. c.	10 p. c.	Free	Free	84	59
375	Ferro-alloys:						
	(c) Ferro-silicon, being an alloy of iron and silicon containing 8 per centum or more, by weight, of silicon and less than 60 per centum per pound, or fraction thereof, on the silicon contained therein	1 ct	1½ cts	Free	Free	(X)	(X)
	(f) All alloys used in the manufacture of steel or iron, n. o. p.	5 p. c.	5 p. c.	Free	Free	462	216
377a	Blooms, cogged ingots, slabs, billets, n. o. p., sheet bars, of iron or steel, by whatever process made, n. o. p. ..... per ton	$4.00	$4.00	$2.50	$2.50	324	324
377c	Ingots, cogged ingots, blooms, slabs, billets, n. o. p., of iron or steel, of a class or kind not made in Canada, when imported by manufacturers of forgings for use exclusively in the manufacture of forgings, in their own factories, under regulations prescribed by the Minister ..... per ton	$3.00	$3.00	Free	Free	27	27

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
377f	Bars or rods, of iron or steel, hot rolled, viz: Rounds over 4⅞ inches in diameter and squares over 4 inches ..... per ton	$6.00	$6.00	Free	Free	55	46
378	Bars and rods, of iron or steel; billets, of iron or steel, weighing less than sixty pounds per lineal yard:						
	(a) Not further processed than hot rolled, n. o. p. ..... per ton	$7.00	$7.00	$4.25	$4.25	1,135	1,053
	(b) Not further processed than hammered or pressed, n. o. p.	25 p. c.	25 p. c.	10 p. c.	10 p. c.	11	11
	(c) Cold rolled, drawn, reeled, turned, or ground, n. o. p.	20 p. c.	20 p. c.	10 p. c.	10 p. c.	382	296
	(d) Hot rolled, valued at not less than 4 cents per pound, n. o. p.	12½ p. c.	12½ p. c.	Free	Free	1,177	579
379	Bars or rods, or iron or steel, including billets weighing less than 60 pounds per lineal yard, hot rolled, as hereunder defined, under regulations prescribed by the Minister:						
	(e) Bars of iron or steel, hot rolled, 5 inches in diameter and larger, when imported by manufacturers of polished shafting for use in their own factories ..... per ton	$7.00	$7.00	Free	Free	2	2
	(f) Sash or casement sections of iron or steel, hot or cold rolled, not punched, drilled nor further manufactured, when imported by manufacturers of metal window frames, for use in their own factories ..... per ton	$7.00	$7.00	Free	Free	77	60
380	Plates, of iron or steel, hot or cold rolled:						
	(a) Not more than 66 inches in width, n. o. p. ..... per ton	$8.00	$8.00	$4.25	$4.25	197	158
	(b) More than 66 inches in width, n. o. p. ..... per ton	$6.00	$6.00	Free	Free	883	700
	(c) Flanged, dished or curved, n. o. p.	25 p. c.	25 p. c.	5 p. c.	5 p. c.	27	27
	(d) With chequer, diamond or other raised pattern on contact surface ..... per ton	$8.00	$8.00	Free	Free	93	49
381	Sheets, of iron or steel, hot or cold rolled:						
	(a) .080 inch or less in thickness, n. o. p.	20 p. c.	20 p. c.	7½ p. c.	7½ p. c.	2,787	2,683
	(b) More than .080 inch in thickness, n. o. p. ..... per ton	$6.00	$6.00	$4.25	$4.25	892	881
382	Hoop, band or strip, of iron or steel:						
	(a) Hot rolled, .080 inch or less in thickness, n. o. p.	12½ p. c.	12½ p. c.	5 p. c.	5 p. c.	246	198
	(b) Hot rolled, more than .080 inch in thickness, n. o. p. ..... per ton	$7.00	$7.00	$3.00	$3.00	125	123
	(c) Cold rolled or cold drawn, .080 inch or less in thickness, n. o. p.	20 p. c.	20 p. c.	7½ p. c.	7½ p. c.	384	293
	(d) Cold rolled or cold drawn, more than .080 inch in thickness, n. o. p.	27½ p. c.	27½ p. c.	12½ p. c.	12½ p. c.	34	33
383	Sheets, plates, hoop, band or strip, of iron or steel:						
	(a) Coated with tin, of a class or kind not made in Canada, n. o. p.	10 p. c.	15 p. c.	Free	Free	394	24
	(b) Coated with tin, n. o. p.	15 p. c.	17½ p. c.	15 p. c.[25]	Free	8,845	3,332
	(c) Coated with zinc, n. o. p.	17½ p. c.	17½ p. c.	7½ p. c.	7½ p. c.	1,295	837
	(d) Coated with metal or metals, n. o. p.	10 p. c.	10 p. c.	5 p. c.[26]	5 p. c. or 2½ p. c.	675	661
	(e) Coated with paint, tar, asphaltum or otherwise coated, n. o. p.	12½ p. c.	12½ p. c.	5 p. c.	5 p. c.	212	209
	(f) Coated with vitreous enamel, n. o. p.	20 p. c.	20 p. c.	10 p. c.	10 p. c.	3	3
	(g) Corrugated, coated or not	20 p. c.	20 p. c.	10 p. c.	10 p. c.	145	42

384	Skelp of iron or steel, hot rolled, when imported by manufacturers of pipes and tubes for use exclusively in the manufacture of pipes and tubes, in their own factories, under regulations prescribed by the Minister	5 p. c	5 p. c	Free	Free	4,339	3,931
385	Sheets, plates, hoop, band or strip, of iron or steel, hot rolled, valued at not less than five cents per pound, n. o. p.	12½ p. c	12½ p. c	Free	Free	64	56
385a	Sheets, plates, hoop, band or strip, of rust, acid or heat resisting steels, hot or cold rolled, polished or not, valued at not less than five cents per pound	12½ p. c	17½ p. c	Free	Free	531	398
386	Sheets, plates, hoop, band or strip, of iron or steel, as hereunder defined, under regulations prescribed by the Minister:						
	(a) Plates, when imported by manufacturers for use exclusively in the manufacture or repair of the pressure parts of boilers, pulp digesters, steam accumulators and vessels for the refining of oil, in their own factories ..... per ton	$5.00	$5.00	Free	Free	417	404
	(c) Sheets, plates, hoop, band or strip, hot rolled, being mould boards, shares, cultivator or shoe shapes, plough plates, land sides or disc circles, when such rectangles, circles or sketches are cut to shape but not moulded, punched, polished or otherwise manufactured, when imported by manufacturers of agricultural implements for use exclusively in the manufacture of agricultural implements, in their own factories	Free	Free	Free	Free	163	163
	(h) Sheets, plates, hoop, band or strip, hardened, tempered or ground, not further manufactured than cut to shape, without indented edges, when imported by manufacturers of saws for use exclusively in the manufacture of saws, in their own factories	10 p. c	10 p. c	Free	Free	86	39
	(k) Sheets, hot or cold rolled, when imported by manufacturers of hollow-ware coated with vitreous enamel or of apparatus designed for cooking or for heating buildings, for use exclusively in the manufacture of hollow ware coated with vitreous enamel or of vitreous-enamelled sheets for apparatus designed for cooking or for heating buildings	10 p. c	10 p. c	Free	Free	394	361
386	Sheets, plates, hoop, band or strip, etc.—Continued						
	(m) (i) Sheets of iron or steel, cold rolled, when imported by manufacturers for use exclusively in the manufacture of sheets coated with tin	15 p. c	15 p. c	Free	Free		
	(ii) Sheets, hoop, band or strip, of iron or steel, hot rolled, when imported by manufacturers for use exclusively in the manufacture of sheets, hoop, band and strip, coated with zinc or other metal or metals, not including tin, in their own factories	17½ p. c	17½ p. c	5 p. c	5 p. c	396	70
	(p) Sheets of iron or steel, hot or cold rolled, with silicon content of 0.75 p. c. or more, when imported by manufacturers of electrical apparatus, for use in the manufacture of electrical apparatus in their own factories	12½ p. c	12½ p. c	Free	Free	668	668
	(q) Hoop steel, hot or cold rolled, plain or coated, .064 inch or less in thickness, not more than three inches in width, when imported by manufacturers of barrels or kegs or by manufacturers of flat hoops for barrels and kegs, for use exclusively in their own factories	12½ p. c	12½ p. c	Free	Free	120	109
387c	Steel grooved (or girder) rails for electric tramway use, weighing not less than 75 pounds per lineal yard, punched, drilled, or not, of shapes and lengths not made in Canada ..... per ton	$7.00	$7.00	Free	Free	73	52

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
388	Iron or steel angles, beams, channels, columns, girders, joists, tees, zees and other shapes or sections, not punched, drilled or further manufactured than hot rolled, weighing not less than 35 pounds per lineal yard, n. o. p.; piling of iron or steel, not punched or drilled, weighing not less than 35 pounds per lineal yard, including interlocking sections, if any, used therewith, n. o. p.—per ton	$3.00	$3.00	Free	Free	2,119	2,001
388b	Iron or steel angles, beams, channels, columns, girders, joists, tees, zees and other shapes or sections, not punched, drilled or further manufactured than hot rolled, n. o. p.; piling of iron or steel, not punched or drilled, including interlocking sections, if any, used therewith, n. o. p.—per ton	$7.00	$7.00	$4.00	$4.00	565	519
388d	Iron or steel angles, beams, channels, columns, girders, joists, piling, tees, zees, and other shapes or sections, punched, drilled or further manufactured than hot rolled or cast, n. o. p.	30 p. c.	35 p. c.	20 p. c.°	20 p. c.°	16	15
388e	Iron or steel side or centre sill sections, of all sizes not manufactured in Canada, weighing not less than 35 pounds per lineal yard, not punched, drilled, or further manufactured, when imported by manufacturers of railway cars, for use in their own factories—per ton	$3.00	$3.00	Free	Free	6	4
390	Castings, of iron, malleable, n. o. p.	20 p. c.	22½ p. c.	15 p. c.	15 p. c.	134	133
390a	Castings, of iron, nonmalleable, n. o. p.	20 p. c.	22½ p. c.	15 p. c.	15 p. c.	146	146
390b	Castings, of steel, n. o. p.	20 p. c.	22½ p. c.	15 p. c.	15 p. c.	108	106
390c	Piston ring castings of iron or steel, in the rough as from the moulds	Free	Free	Free	Free	11	11
392	Forgings, of iron or steel, in and degree of manufacture, n. o. p.	25 p. c.	27½ p. c.	17½ p. c.°	17½ p. c.°	158	151
Ex 392	Forged golf club heads of iron or steel, with or without face or similar marking, but not ground, polished, plated or otherwise finished	10 p. c.	10 p. c.	10 p. c.	10 p. c.	11	9
392a	Forgings of iron or steel, in any degree of manufacture, hollow, machined or not, not less than 12 inches in internal diameter; and all other forgings, solid or otherwise, in any degree of manufacture, of a weight of 20 tons or over	15 p. c.	20 p. c.	Free	Free	203	22
393	Tires, of steel, in the rough, not drilled or machined in any manner, for railway vehicles, including locomotives and tenders	7½ p. c.	7½ p. c.	Free	Free	784	379
394	Axles and axle bars, n. o. p., and axle blanks, and parts thereof, of iron or steel:						
	(a) For railway vehicles, including locomotives and tenders	22½ p. c.	25 p. c.	7½ p. c.	7½ p. c.	18	6
	(b) For other vehicles, n. o. p.	22½ p. c.	30 p. c.	22½ p. c.†	22½ p. c.°	218	217
	(c) N. o. p.	22½ p. c.	27½ p. c.	20 p. c.	20 p. c.	2	2
396	Pipe, cast, of iron or steel, valued at not more than five cents per pound—per ton	$10.00	$10.80	$5.00	$5.00	8	3
396a	Pipe, cast, of iron or steel, n. o p.	7½ p. c.	7½ p. c.	Free	Free	10	9
397	Pipes and tubes, of wrought iron or steel, plain or coated:						
	(a) Welded or seamless, with plain or processed ends, not more than 10½ inches in diameter, n. o. p.	22½ p. c.	25 p. c.	15 p. c.	15 p. c.	373	344
	(b) Welded or seamless, with plain or processed ends, more than 10½ inches in diameter, n. o. p.	15 p. c.	15 p. c.	10 p. c.	10 p. c.	94	54

	(c) Not joined, with plain ends, not more than 2½ inches in diameter, n. o. p.	10 p. c	10 p. c	5 p. c	5 p. c	14	11
	(d) N. o. p.	15 p. c	20 p. c	12½ p. c	12½ p. c	68	61
398	Pipes and tubes, of steel, seamless, cold-drawn, plain ends, valued at not less than five cents per pound, n. o. p.	5 p. c	5 p. c	Free	Free	457	292
398a	Pipes and tubes of iron or steel, seamless, cold drawn, plain ends, polished, valued at not less than five cents per pound; steel tubes, welded or seamless, more than 10½ inches in diameter, with plain ends, when imported for use exclusively in the manufacture or repair of rolls for paper-making machinery	15 p. c	15 p. c	Free	Free	9	1
400	Fittings and couplings of iron or steel, of every description, for iron or steel pipes and tubes; complete parts thereof	22½ p. c	25 p. c	20 p. c.°	20 p. c.°	526	520
401	Wire, of iron or steel:						
	(a) Barbed fencing, coated or not	10 p. c	10 p. c	Free	Free	23	2
	(b) Twisted, braided or stranded, including wire rope or cable, coated or not, n. o. p.	25 p. c	25 p. c	15 p. c	15 p. c	175	48
	(c) Drawn flat or cold rolled flat after drawing, coated or not, n. o. p., not more than 0.25 inch in width and less than 0.1875 inch in thickness	20 p. c	20 p. c	7½ p. c	7½ p. c	8	7
	(d) Coated with zinc or spelter, curved or not, in coils, 0.144, 0.104, or 0.092 inch in diameter, with tolerance not to exceed 0.004 inch, and not for use in telegraph or telephone lines, n. o. p.	10 p. c	10 p. c	Free	Free	12	11
	(e) Coated with zinc or spelter, n. o. p.	20 p. c	20 p. c	10 p. c	10 p. c	6	4
	(f) Single or several, coated, n. o. p., or covered with any material, including cable so covered	30 p. c	30 p. c	15 p. c	15 p. c	22	15
	(g) N. o. p.	15 p. c	20 p. c	15 p. c	15 p. c	279	252
402a	Woven or welded wire fencing, of iron or steel, coated or not, n. o. p.; wire cloth or wire netting, of iron or steel, coated or not	25 p. c	30 p. c	17½ p. c	20 p. c	111	52
402b	Woven netting, of iron or steel, coated, made from wire of 17 gauge or heavier, with meshes not smaller than one inch and not larger than two inches, with specially strengthened joints, when for use exclusively on fur farms, under regulations prescribed by the Minister:						
	(i) Of a class or kind not made in Canada	17½ p. c	20 p. c	5 p. c	5 p. c	55	(x)
	(ii) N. o. p.	20 p. c	20 p. c	12½ p. c	12½ p. c		
403	Wire, of steel:						
	(c) Valued at not less than 2¾ cents per pound, when imported by manufacturers of wire rope for use exclusively in the manufacture of wire rope, in their own factories, under regulations prescribed by the Minister	5 p. c	5 p. c	Free	Free	927	24
404	Springs, of iron or steel:						
	(b) For the running gear of other (*i. e. Not locomotive or other railway*) vehicles, n. o. p.	27½ p. c	30 p. c	22½ p. c	22½ p. c	17	17
406	Coil chain, coil chain links, including repair links, and chain shackles, of iron or steel:						
	(a) One and one-eighth inches in diameter and over	5 p. c	5 p. c	Free	Free	43	18
	(b) Less than one and one-eighth inches in diameter	25 p. c	25 p. c	15 p. c	15 p. c	62	31
407	Silent chain and finished roller chain, of iron or steel, and complete parts thereof, of a class or kind not made in Canada, n. o. p., either chain of the type which operates over gears or sprockets with machine cut teeth	15 p. c	20 p. c	Free	Free	153	68
407a	Chains, of iron or steel, n. o. p., and complete parts thereof	25 p. c	30 p. c	15 p. c	15 p. c	135	119

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
408	Malleable sprocket chain and link belting chain or iron or steel, including roller chain of all kinds for operating on steel sprockets or gears, when imported by manufacturers of agricultural implements for use exclusively in the manufacture of agricultural implements, in their own factories, under regulations prescribed by the Minister	Free	Free [27]	Free	Free	156	119
409	Cream separators and complete parts therefor, including steel bowls	Free	Free [27]	Free	Free	644	94
409b	Cultivators, harrows, seed-drills, horse-rakes, horse-hoes, scufflers, manure spreaders, garden seeders, weeders, and complete parts of all the foregoing	Free	Free [27]	Free	Free	581	566
409c	Ploughs; farm, field, lawn or garden rollers; soil packers; complete parts of all the foregoing	Free	Free [27]	Free	Free	553	547
409d	Mowing machines, harvesters, either self-binding or without binders, binding attachments, reapers, harvesters in combination with threshing machine separators including the motive power incorporated therein, and complete parts of all the foregoing	Free	Free [27]	Free	Free	2,121	2,106
409e	(i) Spraying and dusting machines and attachments therefor, including hand sprayers; apparatus specially designed for sterilizing bulbs; pressure testing apparatus for determining maturity of fruit: pruning hooks; pruning shears; animal dehorning instruments; and complete parts of all the foregoing	Free	Free [27]	Free	Free	310	296
	(ii) Fruit and vegetable grading, grating, washing and wiping machines and combination bagging and weighing machines, and complete parts thereof; machines for topping vegetables, and machines for bunching and/or tying cut flowers, vegetables, and nursery stock, and complete parts thereof; machines and complete parts thereof for making or lidding boxes for fruit or vegetables; egg-graders and egg-cleaners, and complete parts thereof, not including aluminum parts	Free	Free [27]	Free	Free	31	31
409f	Hay loaders, hay tedders, potato planters, potato diggers, fodder or feed cutters, ensilage cutters, grain crushers and grain or hay grinders for farm purposes only, post-hole diggers, snaths, stumping machines, grain loaders or elevators with a capacity not exceeding 40 bushels per minute and all other agricultural implements or agricultural machinery, n. o. p., and complete parts of all the foregoing	Free	Free [27]	Free	Free	302	290
409g	Incubators for hatching eggs, brooders for rearing young fowl, and complete parts of all the foregoing	Free	Free [27]	Free	Free	55	54
409h	Hay presses and complete parts thereof	Free	Free [27]	Free	Free	15	15
409i	Scythes, sickles or reaping hooks, hay or straw knives, edging knives, hoes, pronged forks, rakes, n. o. p.	Free	Free [27]	Free	Free	61	29
409j	Fanning mills; peaviners; corn-husking machines; threshing machine separators, including weighers, wind stackers, baggers and self-feeders therefor; complete parts of all the foregoing	Free	Free [27]	Free	Free	599	597
409k	Windmills and complete parts thereof, not including shafting	Free	Free [27]	Free	Free	98	98
4091	Traction ditching machines (not being ploughs) and complete parts therefor	Free	Free	Free	Free	14	14

409m	Internal combustion traction engines; traction attachments designed to be combined with automobiles in Canada for use as traction engines; complete parts of all the foregoing	Free	Free	Free	Free	15,003	14,860
409p	Pasteurizers for dairying purposes and complete parts thereof	15 p. c	15 p. c	Free	Free	125	115
410a	Face loading machines, shaker-trough or belt-trough conveyors, air engines, flame proof enclosed driving motors, of a class or kind not made in Canada, and integral parts of all motive power or machinery mentioned in this item, for use exclusively at the face in mining operations	10 p. c	10 p. c	Free	Free	245	196
410b	Machinery and apparatus for use exclusively in washing or dry-cleaning coal at coal mines or coke plants; machinery and apparatus for use exclusively in producing coke and gas; machinery and apparatus for use exclusively in the distillation or recovery of products from coal tar or gas; and complete parts of all the foregoing, not to include motive power, tanks for gas, nor pipes and valves 10½ inches or less in diameter	10 p. c	10 p. c	Free	Free	156	63
410d	Well-drilling machinery and apparatus, and complete parts thereof, for use exclusively in drilling for water, natural gas or oil, or in prospecting for minerals, not to include motive power; machinery and apparatus of a class or kind not made in Canada for maintenance and testing purposes in connection with gas or oil wells; well-packers and complete parts thereof, for oil or gas wells; seamless iron or steel tubing of a class or kind not made in Canada, for use in casing water, natural gas or oil wells	Free	Free	Free	Free	2,145	2,098
410j	Miners' acetylene lamps and complete parts thereof; miners' safety lamps and complete parts thereof; accessories for cleaning, filling, charging, opening and testing miners' lamps; battery renewal preparations for miners' electric safety lamps; all for use exclusively in mines	Free	Free	Free	Free	251	251
410l	Ore crushers, rock crushers, stamp mills, grinding mills, rock drills, percussion coal cutters, coal augers, rotary coal drills, n. o. p. and complete parts of all the foregoing, for use exclusively in mining, metallurgical or quarrying operations	15 p. c	17½ p. c	5 p. c	5 p. c	1,490	1,217
410n	Diamond drills and core drills, not including motive power, electrically operated rotary coal drills, and coal-cutting machines, n. o. p., and integral parts of the foregoing, for use exclusively in mining operations	10 p. c	10 p. c	Free	Free	104	63
410u	Blowers, of iron or steel, n. o. p., for use in the smelting of ores, or in reduction, separation, or refining of metals, ores, or minerals; rotary kilns, revolving roasters and furnaces of metal, n. o. p., for use in the roasting of ore, mineral, rock, or clay; furnace slag trucks and slag pots, n. o. p.; and integral parts of all the foregoing	17½ p. c	17½ p. c	12½ p. c	12½ p. c	190	188
410z	Machinery and apparatus, n. o. p., and complete parts thereof, for the recovery of solid or liquid particles from flue or other waste gases at metallurgical or industrial plants, not to include motive power, tanks for gas, nor pipes and valves 10½ inches or less in diameter	10 p. c	10 p. c	5 p. c	5 p. c	68	65
411a	Machinery, logging cars, cranes, blocks and tackle, wire rope, but not including wire rope to be used for guy ropes or in braking logs going down grade, and complete parts of all the foregoing, for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier	12½ p. c	15 p. c	10 p. c	10 p. c	600	554

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
412a	Machinery and apparatus, n. o. p., viz.: Gun and mould apparatus for making press rollers; machines and apparatus for making electrotypes and stereotypes; engraving machines and apparatus, including photo-engraving apparatus, and other plate-making apparatus, used in the manufacture of printing plates of all kinds; machines and apparatus for graining metal plates; machines and apparatus for sensitizing, grinding, or polishing metal plates; machines and apparatus including cameras and camera equipment, lens, prisms, camera and printing lamps, screens, and vacuum frames for transferring by photographic processes, or direct, to plates or rolls for use in lithography, rotogravure, and printing; shading apparatus; machines and apparatus for addressing and/or wrapping newspapers, magazines, periodicals, pamphlets, and catalogues; machines and apparatus for embossing or stamping or producing embossed or engraved effects, book-binding, looping, stitching, sewing, gathering, inserting, bronzing, dusting, creasing, scoring, cutting, perforating, drilling, punching, slitting, rewinding, glueing, pasting, gumming, waxing, varnishing, carbon coating, patching, numbering, ruling, jogging, sheet piling, tying, bundling, tube-making, metal mounting, eye-letting, staying or stripping, reinforcing and box-covering; complete parts, not to include saws, knives, and motive power; all the foregoing when for use exclusively by, and in their capacities as printers, lithographers, book-binders, manufacturers of stereotypes, electrotypes and printing plates or rolls, paper converters, or by manufacturers of articles made from paper or cardboard	Free	Free	Free	Free	1,069	959
412b	Flat bed cylinder printing presses, to print sheets of a size 25 by 38 inches or larger, and complete parts thereof; machines designed to fold or sheet-feed paper or cardboard, and complete parts thereof	10 p. c	10 p. c	Free	Free	55	54
412c	Typecasting and typesetting machines and parts thereof for use in printing offices	Free	Free	Free	Free	481	481
412d	Offset presses; lithographic presses; printing presses and typemaking accessories therefor, n. o. p.; complete parts of the foregoing, not to include saws, knives, and motive power	10 p. c	10 p. c	Free	Free	1,221	1,038
413	Machinery and apparatus, of a class or kind not made in Canada, and parts thereof, specially constructed for preparing, manufacturing, testing, or finishing yarns, cordage, and fabrics made from textile fibres or from paper, imported for use exclusively by manufacturers and scholastic or charitiable institutions in such processes only	5 p. c	5 p. c	Free	Free	4,167	3,439
414	(i) Typewriters	20 p. c	20 p. c	Free	Free	238	213
	(ii) Complete parts of typewriters	15 p. c		Free		1,058	1,039
414a	Dictating, transcribing, and cylinder shaving machines and complete parts thereof, including cylinders and unfinished wax blanks	12½ p. c	12½ p. c	10 p. c	10 p. c	157	157

414c	(i) Bookkeeping, calculating, and invoicing machines and complete parts thereof, n. o. p.	10 p. c.	12½ p. c.	Free	Free	1,104	1,078
	(ii) Adding machines	17½ p. c.	20 p. c.	Free	Free	[28] 171	[28] 62
	Complete parts of adding machines	15 p. c.	20 p. c.	Free	Free		
415	Electric vacuum cleaners and attachments therefor; hand vacuum cleaners; and complete parts of all the foregoing, including suction hose, n. o. p.	20 p. c.	20 p. c.	5 p. c.	5 p. c.	775	366
415a	Refrigerators, domestic or store, completely equipped or not:						
	(i) Electric	22½ p. c.	25 p. c.	20 p. c.°	20 p. c.°	970	970
	(ii) Other than electric	22½ p. c.	25 p. c.	20 p. c.	20 p. c.°	219	219
415b	Washing machines, domestic, with or without motive power incorporated therein; complete parts of washing machines	22½ p. c.	25 p. c.	15 p. c.	15 p. c.	842	842
415c	Clothes wringers, domestic, and complete parts of metal thereof	22½ p. c.	25 p. c.	20 p. c.	20 p. c.	109	109
415d	Sewing machines, with or without motive power incorporated therein; complete parts of sewing machines	15 p. c.	15 p. c.	5 p. c.	5 p. c.	1,128	989
422	Street or road rollers and complete parts thereof	25 p. c.	30 p. c.	Free	Free	81	70
422a	Concrete road-paving machines, self-propelling, end loading type, with a capacity of 21 cubic feet of wet concrete or more; concrete and asphalt road finishing machines; form graders; sub-graders; combination excavating and transporting scraper units; concrete mixers, transit type; dump wagons or trailers, having a capacity of 10 cubic yards or over, not self-propelled; back-filling machines and equipment, mounted on self-propelling wheels or crawling traction, semi- or full-revolving boom and scraper type; steam or air driven pile hammers or extractors; well-points; truck turn-tables; all the foregoing of a class or kind not made in Canada, and complete parts thereof	10 p. c.	10 p. c.	Free	Free	505	505
423	Electric dental engines	22½ p. c.	30 p. c.	Free	Free	11	10
424	Fire engines and other fire extinguishing machines and chassis for same; complete parts other than chassis parts	25 p. c.	30 p. c.	Free	Free	16	15
424a	Hand fire extinguishers, and sprinkler heads for automatic sprinkler systems for fire protection	20 p. c.	30 p. c.	20 p. c.†	22½ p. c.°	98	98
425	Lawn mowers	25 p. c.	30 p. c.	10 p. c.	10 p. c.	114	101
Ex 425	Lawn mowers designed for use with motive power, whether or not containing the power unit	15 p. c.	15 p. c.	10 p. c.	10 p. c.	n. s. s.	
427	All machinery composed wholly or in part of iron or steel, n. o. p., and complete parts thereof	25 p. c.	25 p. c.	10 p. c.	10 p. c.	11,618	10,815
Ex 427	Machinery and apparatus enumerated in Tariff Item 412a when for use by manufacturers of articles made from regenerated cellulose or cellulose acetate; complete parts of such machinery and apparatus, not to include saws, knives, and motive power	5 p. c.	5 p. c.	5 p. c.	5 p. c.	8	8
Ex 427	Veneer-drying machines, and complete parts thereof	5 p. c.	5 p. c.	5 p. c.	5 p. c.	65	58
Ex 427	Wire stitchers and staplers, either hand or power type, but not including motive power; complete parts of the foregoing	5 p. c.	5 p. c.	5 p. c.	5 p. c.	78	74
427a	All machinery composed wholly or in part of iron or steel, n. o. p., of a class or kind not made in Canada; complete parts of the foregoing	10 p. c.	10 p. c.	Free	Free	8,862	7,359
Ex 427b	Ball and roller bearings	17½ p. c.	17½ p. c.	Free	Free	991	747
427c	Machinery for dairying purposes, viz: Power churns, power milk coolers, power fillers and cappers, power ice cream mixers, power butter printers, power cream savers, power bottle sterilizers, power brine tanks, power milk bottle washers, power milk can washers; ice-breaking machines, valveless or centrifugal milk pumps, sanitary milk and cream vats; none of the foregoing machinery to include motive power	15 p. c.	15 p. c.	Free	Free	210	207

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
427d	Machines designed for making rigid composite box-ends of wood consisting of a centre with separate nailing edges attached from scrap or waste mill stock, and complete parts thereof, not to include motive power	25 p. c	27½ p. c	Free	Free	n. s. s.	
427e	Automatic machines for making and packaging cigars and cigarettes, not to include tobacco-preparing machines	10 p. c	10 p. c	Free	Free	107	15
427h	Motion-picture projectors, arc lamps for motion-picture work, motion picture or theatrical spot lights, light effect machines, motion-picture screens, portable motion picture projectors with or without sound equipment; electric rectifiers or generators designed for use with motion-picture projectors; complete parts of all the foregoing, not to include electric-light bulbs, tubes, or exciter lamps	15 p. c	15 p. c	Free	Free	336	330
428c	Engines and boilers and complete parts thereof, n. o. p	20 p. c	25 p. c	15 p. c	15 p. c	1,159	1,139
428d	Magnetos and complete parts thereof, when imported by manufacturers of internal-combustion engines, for use exclusively in the manufacture of such internal-combustion engines, in their own factories	10 p. c	10 p. c	Free	Free	9	9
428e	Diesel and semi-diesel engines, and complete parts thereof, n. o. p	20 p. c	20 p. c	Free	Free	730	312
428f	Air-cooled internal-combustion engines of not greater than 1½ h. p. rating, and complete parts thereof	20 p. c	20 p. c	Free	Free	46	43
429	Cutlery of iron or steel, plated or not:						
	(b) Table knives and table forks	25 p. c	30 p. c	15 p. c	15 p. c	160	35
	(c) Penknives, jack-knives and pocket knives of all kinds	20 p. c	30 p. c	Free	Free	143	24
	(d) Knives, n. o. p	20 p. c	30 p. c	Free	Free	182	89
	(e) Spoons	25 p. c	30 p. c	15 p. c	15 p. c	38	15
	(f) Scissors and shears, n. o. p	20 p. c	30 p. c	Free	Free	176	78
	(g) Razors and complete parts thereof; razor blades, n. o. p	27½ p. c	30 p. c	Free	Free	143	39
	Safety razor blades	20 p. c	25 p. c	Free	Free	163	103
430	Nuts and bolts with or without threads, washers, rivets, of iron or steel, coated or not, n. o. p.; nut and bolt blanks, of iron or steel	50 cts	50 cts	25 cts	25 cts	217	209
	per one hundred pounds and	17½ p. c	17½ p. c	7½ p. c	7½ p. c		
430a	Hinges and butts, of iron or steel, coated or not, n. o. p.; hinge and butt blanks, of iron or steel	75 cts	75 cts	75 cts	75 cts	106	75
	per one hundred pounds and	20 p. c	24¾ p. c	5 p. c	5 p. c		
430b	Screws, of iron or steel, coated or not:						
	(I) Wood screws	20 p. c	25 p. c	15 p. c	15 p. c	31	14
	(II) Machine and other screws, n. o. p. per one hundred pounds and	50 cts 17½ p. c	25 p. c	15 p. c	15 p. c	129	127
431b	Adzes, anvils, vises, cleavers, hatchets, saws, augers, bits, drills, screw-drivers planes, spokeshaves, chisels, mallets, metal wedges, wrenches, sledges, hammers, crowbars, cantdogs, and track tools, picks, mattocks, and eyes or polls for the same	25 p. c	27½ p. c	10 p. c	10 p. c	1,273	873

431c	Machinists' or metal workers' precision tools and measuring instruments, viz.: Calipers micrometers, metal protractors and squares, bevels, verniers, gauges, gauge blocks, parallels, buttons, mercury plumb bobs, dividers, trammels, scribers, automatic center punches, hand speed indicators, straight edges, key seat clamps and other clamps and vises used by toolmakers for precision work, precision tools and measuring instruments, n. o. p.; parts of all the foregoing, finished or not	10 p. c	10 p. c	Free	Free	393	281
431d	Engineers', surveyors', and draftsmen's precision instruments and apparatus, viz.: Alidades; altazimuth surveying instruments; aneroid barometers, engineering, military and surveying; angle prisms; boards, military sketching; box sextants, clinometers; compasses; cross staff heads; curves, adjustable, irregular, railroad and ship; curvimeters; drafting instruments of all kinds, including fitted cases containing the same; dipping needles; drafting machines; heliographs; integrators; levels, tripod and hand or pocket types; levelling rods; liners, section; meters, portable for hydraulic engineering; pantographs; planimeters; protractors; parallel rulers; parallel ruling attachments; poles, ranging; pedometers and paceometers; plane tables, military and topographic; scales, flat and triangular; slide rules; splines; straight edges, steel and wooden; tacheometers; tallying machines, pocket; tee squares, steel and wooden; telemeters; theodolites; transits, tripod and hand or pocket types; triangles of all types; tripods for use with any of the foregoing instruments; parts of all the foregoing, finished or not	10 p. c	10 p. c	Free	Free	Trade included in 431c	
431e	Measuring rules and tapes of all kinds	22½ p. c	25 p. c./22½ p. c.[29]	15 p. c	15 p. c	79	44
431f	Files and rasps	25 p. c	27½ p. c	Free	Free	227	137
431g	Fixed or stationary meters, of a size or capacity not made in Canada, for hydraulic engineering; gauges, indicators and recorders for water or other liquid levels, volume or flow, of a class or kind not made in Canada	20 p. c	20 p. c	Free	Free	6	5
432	Hollow-ware, of iron or steel, coated or not, n. o. p	20 p. c	25 p. c	10 p. c	10 p. c	82	76
432a	Kitchen and dairy hollow-ware of iron or steel, coated with tin, including cans for shipping milk or cream, not painted, japanned or decorated	20 p. c	25 p. c	15 p. c	15 p. c	55	46
432b	Hollow-ware, of iron or steel, coated with vitreous enamel	22½ p. c	30 p. c	17½ p. c.°	17½ p. c.°	180	127
432c	Containers manufactured from tinplate, when imported by manufacturers of food products for use exclusively in the hermetical sealing of food products, in their own factories, under regulations prescribed by the Minister	20 p. c	22½ p. c	10 p. c	10 p. c	383	383
432d	Manufactures of tinplate, painted, japanned, decorated or not, and manufactures of tin, n. o. p	20 p. c	25 p. c	15 p. c	15 p. c	943	791
433	Baths, bathtubs, basins, closets, lavatories, urinals, sinks, and laundry tubs of iron or steel, coated or not	20 p. c	25 p. c	5 p. c	5 p. c	160	160
434	Locomotives for use on railways, and chassis, tops, wheels and bodies for the same, n. o. p	25 p. c	30 p. c	15 p. c	15 p. c	88	88
Ex 434	Locomotives and motor cars for railways, for use exclusively in mining, metallurgical or sawmill operations, n. o. p., and chassis, tops, wheels and bodies for the same, n. o. p	20 p. c	30 p. c	15 p. c	15 p. c	n. s. s.	
434a	Motor rail cars or units for use on railways, and chassis for same; complete parts of the foregoing	20 p. c	30 p. c	Free	Free	49	48
434b	Steel wheels for use on railway rolling stock, viz:						
	(i) Pressed steel	27½ p. c	30 p. c	7½ p. c	7½ p. c	192	34
	(ii) N. o. p	27½ p. c	27½ p. c	7½ p. c	7½ p. c	162	49

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
435	(a) Locomotives and motor cars for railways, of a class or kind not made in Canada, and complete parts thereof, for use exclusively in mining, metallurgical or sawmill operations	Free	12½ p. c	Free	Free	230	200
	(b) Diesel switching locomotives of a class or kind not made in Canada	10 p. c.	12½ p. c.[30]	Free	Free	n. s. s.	
438	Railway cars and parts thereof, n. o. p.	22½ p. c.	27½ p. c	15 p. c	15 p. c.	379	368
438a	Automobiles and motor vehicles of all kinds, n. o. p.; electric trackless trolley busses; chassis for all the foregoing	17½ p. c	17½ p. c	Free	Free	15,830	15,366
	Provided, that machines or other articles mounted on the foregoing or attached thereto for purposes other than loading or unloading the vehicle shall be valued separately and duty assessed under the tariff items regularly applicable thereto.						
438e	Parts, n. o. p., for automobiles, motor vehicles, electric trackless trolley busses or chassis enumerated in tariff items 438a and 424, not to include wireless receiving sets, die castings of zinc, electric storage batteries, parts of wood, tires and tubes or parts of which the component material of chief value is rubber:						
	(1) Brake linings, and clutch facings whether or not including metallic wires or threads:						
	(a) When made from crude asbestos of British Commonwealth origin	25 p. c.	25 p. c.	Free	Free	223	189
	(b) When made from crude asbestos, n. o. p.	25 p. c.	25 p. c.	15 p. c	15 p. c.	n. s. s.	
	(2) Automobile and motor vehicle engines, stripped, n. o. p., and complete parts thereof, n. o. p.	25 p. c.	25 p. c.	Free	Free	1,879	1,863
	(3) Parts, n. o. p., electroplated or not, whether finished or not	30 p. c.	30 p. c.	Free	Free	7,546	7,484
	Provided, that parts in chief value of iron or steel which were classified for duty purposes under tariff items 427 and 446a, as of January 1, 1936, shall be dutiable at	25 p. c.	25 p. c	Free	Free	2,539	2,535
438g	Motor cycles or side cars therefor, and complete parts of the foregoing	17½ p. c.	17½ p. c.	Free	Free	342	204
438j	Piston, castings of any material, in the rough or semifinished	25 p. c.	25 p. c.	Free	Free [31]	[31] 31	[31] 31
439	Bicycles and tricycles, n. o. p.	25 p. c	27½ p. c.	20 p. c.°	20 p. c.°	70	40
439a	Articles, of iron or steel, wholly or in part of nickel or electroplated, when imported by manufacturers of bicycles or tricycles for use exclusivey in the manufacture of bicycles or tricycles, in their own factories, under regulations prescribed by the Minister	22½ p. c.	27½ p. c.	10 p. c.	15 p. c	98	7
439b	Cars, n. o. p., wheelbarrows, trucks, road or railway scrapers and hand carts	22½ p. c.	27½ p. c.	10 p. c.	15 p. c.	204	199
439c	Farm wagons, farm sleds, logging wagons, logging sleds, and complete parts thereof	15 p. c.	15 p. c.	Free	Free	26	26
439f	Children's carriages, sleds and other vehicles; complete parts of all the foregoing	22½ p. c.	30 p. c.	15 p. c.	15 p. c.	71	64
Ex 440g	Diesel and semi-diesel engines, of a class or kind not made in Canada, and complete parts thereof, for use exclusively in the construction or equipment of ships or vessels	Free	Free	Free	Free	607	471

440j	Trawls, trawling spoons, fly hooks, sinkers, swivels, sportsmen's fishing reels, bait, hooks, and fishing tackle, n. o. p.	20 p. c.	20 p. c.	Free	Free	363	213
4401	(i) Aircraft, not including engines, under regulations prescribed by the Minister	15 p. c.	20 p. c.	Free	Free	5,550	2,835
	(ii) Complete parts of aircraft, not including parts of aircraft engines	15 p. c.	15 p. c.	Free	Free		
440m	(i) Unfinished parts of aircraft, n. o. p., not including parts of aircraft engines	15 p. c.	15 p. c.	Free	Free		
440n	Engines, when imported for use only in the equipment of aircraft	15 p. c.	17½ p. c.	Free	Free	[32] 2,492	[32] 1,092
440o	(i) Carburetors, magnetos, distributors, coils and spark plugs and complete parts thereof; all the foregoing when of a class or kind not made in Canada when imported for use in aircraft engines	Free	Free	Free	Free		
	(ii) Parts, finished or not, n. o. p., for aircraft engines	5 p. c.	6¾ p. c.	Free	Free		
440p	Direct or inertia starters with or without related operating gear and parts thereof; generators; voltage control boxes; batteries; de-icing and anti-icing equipment and parts thereof, not including parts of rubber; vacuum pumps with related operating gear and parts thereof; landing and navigation lights; propellers; hydraulic jacks and pumps and parts thereof; aircraft wheels; aircraft brakes with related operating gear and parts thereof; aircraft tires and tubes; oil coolers; fuel pressure warning devices; exhaust gas analysers; pressure fire extinguishers; primer pumps; instrument excepting fuel contents gauges; bolts, nuts, cocks, turnbuckles, clevis and pins, swaged wires and tie rods; bars, tubes, extrusions and forgings of aluminum, aluminum alloys and magnesium alloys; steel tubing; all the foregoing when of types and sizes not made in Canada and imported for use exclusively in the manufacture or for spares, overhaul or repair of the goods enumerated in Tariff Item 4401 under such regulations as the Minister may prescribe	Free	Free	Free	Free	New item from October 12, 1940, trade included with 440L	
441	Guns, rifles, including air guns and air rifles not being toys; muskets, cannons, pistols, revolvers, or other firearms, n. o. p.; cartridge cases, cartridges, primers, percussion caps, wads or other ammunition, n. o. p.; bayonets, swords, fencing foils and masks; gun or pistol covers or cases, game bags, loading tools and cartridge belts of any material	22½ p. c.	27½ p. c.	10 p. c.	10 p. c.	753	367
441e	Guns and rifles of a class or kind not made in Canada	10 p. c.	15 p. c.	Free	Free	244	108
442	Articles and materials which enter into the cost of manufacture of the goods enumerated in tariff items 409, 409a, 409b, 409c, 409d, 409e, 409f, 409g, 409h, 409i, 409j, 409k, 409l, 409m, 409n, 409o and 439c, when imported for use in the manufacture of the goods enumerated in the aforesaid tariff items, or in the manufacture of parts therefor, under regulations prescribed by the Minister	Free	Free	Free	Free	1,797	1,701
443	Apparatus designed for cooking or for heating buildings:						
	(1) For coal or wood	22½ p. c.	25 p. c.	15 p. c.	15 p. c.	2,271	2,183
	(2) For gas	22½ p. c.	25 p. c.	15 p. c.	15 p. c.		
	(3) For electricity	22½ p. c.	25 p. c.	15 p. c.	15 p. c.		
	(4) For oil	22½ p. c.	25 p. c.	15 p. c.	15 p. c.		
	(5) N. o. p.	22½ p. c.	25 p. c.	15 p. c.	15 p. c.		
444a	Gas, coal oil, or other lighting fixtures and appliances, n. o. p., including tips, burners, collars and galleries; gas mantles and incandescent gas burners; complete parts of all the foregoing	22½ p. c.	27½ p. c.	15 p. c.	15 p. c.	135	119
444b	Lamp shades, n. o. p., and shade holders	22½ p. c.	27½ p. c.	15 p. c.	15 p. c.	90	86
445	Electric light fixtures and appliances, n. o. p., and complete parts thereof	22½ p. c.	27½ p. c.	20 p. c.°	20 p. c.°	939	880
445a	Electric head, side, and tail lights, n. o. p.; electric torches or flashlights and complete parts therefor	22½ p. c.	27½ p. c.	20 p. c.°	20 p. c.°	350	294

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
445b	Electric arc lamps and incandescent electric light lamps, n. o. p.	25 p. c.	30 p. c.	20 p. c.°	20 p. c.°	350	228
445c	(i) Electric telegraph apparatus and complete parts thereof	20 p. c.	25 p. c.	Free	Free	173	165
	(ii) Electric telephone apparatus and complete parts thereof	22½ p. c.	25 p. c.	10 p. c.	10 p. c.	1,114	1,006
445d	Electric wireless or radio apparatus and complete parts thereof, n. o. p.	20 p. c.	25 p. c.	Free	Free	2,673	2,558
445e	Electric and galvanic batteries, n. o. p., and complete parts thereof, including separator walls of wood, cut to size or not	22½ p. c.	25 p. c.	15 p. c.	15 p. c.	228	190
445f	Electric dynamos or generators and transformers, and complete parts thereof, n. o. p.	22½ p. c.	25 p. c.	15 p. c.	15 p. c.	621	397
445g	Electric motors, and complete parts thereof, n. o. p.	22½ p. c.	25 p. c.	15 p. c.	15 p. c.	1,786	1,478
445h	Electric insulators of all kinds, n. o. p., and complete parts thereof	22½ p. c.	25 p. c.	15 p. c.	15 p. c.	270	247
445i	Electric sad irons and complete parts thereof	22½ p. c.	25 p. c.	12½ p. c.	15 p. c.	106	106
445j	Electric dry-shaving machines for use in removing human hair, and parts thereof	Free	Free	Free	Free	206	204
445k	Electric apparatus and complete parts thereof, n. o. p.	22½ p. c.	25 p. c.	15 p. c.	15 p. c.	3,649	3,193
445l	Electric storage batteries, composed of plates measuring not less than eleven inches by fourteen inches and not less than three-quarters inch in thickness; complete parts thereof	20 p. c.	25 p. c.	Free	Free	134	107
445m	Flameproof electric switch gear, for use underground in coal mines, and complete parts thereof	20 p. c.	20 p. c.	Free	Free	3	----
445n	Electrical instruments and apparatus of precision of a class or kind not made in Canada, viz: Meters of gauges for indicating and/or recording altitude, amperes, comparisons, capacity, density, depth, distance, electrolysis, flux, force, frequency, humidity, inductance, liquid levels, ohms, operation, power factor, pressure, space, speed, stress, synchronism, temperature, time, volts, volume, watts, complete parts thereof	15 p. c.	17½ p. c.	Free	Free	226	201
450o	Acid-free capacitor tissue and paper, plain and gummed; metal cans, extruded, plated or unplated; automatic record changers; parts for pick-ups; bias cells and holders; frames, yokes, brackets, pole-pieces, gaskets and field covers, separate or assembled for use in speakers with mounting diameter not exceeding 6⅜ inches; cones, spiders, spider suspensions, voice coils and voice coil dust covers, separate or assembled; magnetic structures and parts thereof for permanent magnet speakers; glass dial crystals and scales and metal dials or scales made by the silk-screen process; metal cabinet escutcheons without crystals, plain or finished; high-frequency circuit switches and essential components thereof; high-frequency iron cores with or without inserts moulded therein; motors and gears for automatic tuning; radio-frequency ceramics; raw low-loss mica; sheets and punchings of low-loss mica; tube shields and parts thereof; vibrators; vulcanized fibre in sheets, rods, strips or tubing; high-frequency coil forms and tubing having an outside diameter not exceeding one inch; for use in the manufacture or the repair of the goods enumerated in tariff items 445d, 597a, and other apparatus using radio tubes, or for use in the manufacture of parts therefor	Free	Free	Free	Free	¤ 278	¤ 274

445p	Ceramic parts; copper alloys for welding; getters and getter assemblies; glass parts; metal bulbs and shells and metal headers; mica parts; mica assemblies; wire snubbers, clips and straps; wire of molybdenum and molybdenum alloy; nickel and nickel alloy tubing, wire, ribbon, screen and strip, coated or not, carbonized or not; metal cathodes; nickel, nickel alloy and nickel plated parts, coated or not, carbonized or not; tungsten and tungsten alloy and zinc wire; leads, spuds and welds; iron parts designed for sealing to glass; hooks and supports; base pins; wire and strip of silver copper, chrome copper, chrome iron or plated iron; top cap assembles; graphite anodes; heaters and filaments; all the foregoing when imported by manufacturers of radio tubes and parts therefor, for use exclusively in the manufacture of such articles, in their own factories	Free	Free	Free	Free	[34] 104	[34] 103
446	Electric steam turbogenerator sets, 700 h. p. and greater, of a class or kind not made in Canada, and complete parts thereof	20 p. c	20 p. c	Free	Free	380	38
446a	Manufactures, articles or wares, of iron or steel or of which iron or steel or both are the component materials of chief value, n. o. p	25 p. c	25 p. c	10 p. c	10 p. c	9,220	8,351
Ex 446a	Locomotive beds or frames of steel, cast in one piece; tender frames of steel, cast in one piece; cast-steel cradles for the rear ends of locomotive frames; cast-steel truck frames and bolsters for engines, tenders and passenger coaches; platform castings for passenger coaches; all the foregoing, whether in the rough or semimanufactured, for use on railway rolling stock	5 p. c	7½ p. c	Free	Free	112	112
Ex 446a	Tools of iron or steel, for use in machines, n. o. p., of a class or kind not made in Canada	10 p. c	10 p. c	Free	Free	456	372
Ex 446a	Welding rods or welding wires of rust, acid or heat resisting steel, whether or not flux-coated	15 p. c	15 p. c	10 p. c	10 p. c	48	48
Ex 446a	Metal shells and hinges, for use in manufacturing jewelry boxes and spectacle cases, not further finished than shaped	12½ p. c	12½ p. c	Free	Free	24	24
446b	Steel bicycle rims, not enameled nor plated	27½ p. c	27½ p. c	Free	Free	32	
446c	Golf shafts of seamless steel, coated or not, but not chromium plated	15 p. c	15 p. c	Free	Free	78	24
446d	Bottles or cylinders of steel for use as high-pressure containers for gas	20 p. c	20 p. c	Free	Free	197	165
446f	Cellulose acetate film reinforced with wire mesh	22½ p. c	25 p. c	Free	Free	15	6
Ex 446g	Electric welding apparatus, not including motors	20 p. c	20 p. c	5 p. c	5 p. c	n. s. s.	
446i	Stampings of metal, or assemblies thereof, for use in the manufacture of bathtubs	10 p. c	10 p. c.[35]	Free	Free	176	176
447	Water pumps, hand or power, for domestic purposes only	22½ p. c	25 p. c	Free	Free	66	55
447a	Sand cast rolls and chilled cast iron rolls, for use exclusively in rolling iron or steel, or in manufacturing paper	Free	Free	Free	Free	367	363
Ex 450	Roller skates and parts thereof	15 p. c	25 p. c	15 p. c	15 p. c	[34] 69	[34] 69
451	Buckles, clasps, eyelets, hooks and eyes, dome, snap or other fasteners of iron, steel, brass or other metal, coated or not, n. o. p. (not being jewelery)	25 p. c	27½ p. c	15 p. c	15 p. c	274	241
451a	(i) Spring-beard needles and latch needles	25 p. c	30 p. c	10 p. c	10 p. c	24	16
	and, per thousand	$1.50	$1.50				
	(ii) Needles, of any material or kind, n. o. p	25 p. c	30 p. c	10 p. c	10 p. c	298	90
451b	Pins manufactured from wire or any metal:						
	(i) Specially designed for marking systems	5 p. c	5 p. c	Free	Free	101	25
	(ii) N. o. p	25 p. c	27½ p. c	15 p. c	17½ p. c.[6]		
	and, per pound	10 cts	10 cts				
451e	Slide, hookless, or zipper fasteners	30 p. c	37½ p. c	25 p. c.[6]	30 p. c.[6]	235	23

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
454	Frames not more than ten inches in width, clasps and fasteners (not to include slide or hookless fasteners), when imported by manufacturers of purses, chatelaine bags or reticules for use exclusively in the manufacture of purses, chatelaine bags or reticules, in their own factories, under regulations prescribed by the Minister; parts of the foregoing	12½ p. c.	12½ p. c.	Free	Free	158	155
461	Safes, including doors; doors and door frames for vaults; scales, balances, weighing beams and strength-testing machines of all kinds, n. o. p.	20 p. c.	27 p. c.	10 p. c.	10 p. c.	296	276
461a	Automatic scales or weighing machines, of a class or kind not made in Canada, and complete parts of the foregoing, for use in Canadian manufactures	Free	Free	Free	Free	60	[37] 57
462	(i) Philosophical, photographic, mathematical and optical instruments, n. o. p.; speedometers, cyclometers and pedometers, n. o. p.; complete parts of all the foregoing	15 p. c.	17½ p. c.	2½ p. c.	2½ p. c.[38]	702	496
	(ii) Cameras and complete parts thereof, n. o. p.:						
	(a) Of a class or kind not made in Canada	17½ p. c.	20 p. c.	5 p. c.	5 p. c.[38]	442	299
	(b) N. o. p.	20 p. c.	20 p. c.	7½ p. c.	7½ p. c.		
462b	Cinematograph and motion picture cameras, 35 mm., for use by professional motion picture producers having studios in Canada equipped for motion picture production; parts of the foregoing	9 p. c.	9 p. c.	Free	Free	13	6
465	Signs of any material other than paper, framed or not; letters and numerals of any material other than paper	20 p. c.	25 p. c.	10 p. c.	10 p. c.	117	106
469	Machine card clothing	20 p. c.	20 p. c.	10 p. c.	10 p. c.	38	17
471a	Pressed steel belt pulleys for power transmission, and finished or unfinished parts thereof, including interchangeable bushings	20 p. c.	20 p. c.	Free	Free	24	13
475b	Matrices for stereotypes, electrotypes, and celluloids described in tariff item 475a per square inch	½ ct.	½ ct.	Free	Free	20	20
476	Surgical and dental instruments of any material; surgical needles; X-ray apparatus; microscopes valued at not less than 59 dollars each, retail; complete parts of all the foregoing	Free	Free	Free	Free	1,948	1,534
488	Nitrate and acetate of lead, not ground; platinum and black oxide of copper, for use in the manufacture of chlorates and colours	10 p. c.	10 p. c.	Free	Free	31	7
494	Manufactures of corkwood or cork bark, n. o. p., including strips, shives, shells and washers of cork	15 p. c.	15¾ p. c.	Free	Free	303	245
495	Corks, manufactured from corkwood, over three-fourths of an inch in diameter measured at the larger end per pound	4½ cts.	4½ cts.	4 cts.	4 cts.	99	57
498	Cane, reed or rattan, not further manufactured than split, n. o. p.	Free	10 p. c.	Free	Free	28	22
500	Logs and round unmanufactured timber, handle, heading, stave and shingle bolts, n. o. p.; firewood, hop poles, fence posts and railway ties	Free	Free	Free	Free	1,039	1,039

502	Mexican saddle trees and stirrups of wood, treenails; hub last, wagon, oar and gun blocks, and all like blocks or sticks, rough hewn, or sawn only; felloes of hickory or oak, not further manufactured than rough sawn or bent to shape; staves of oak, sawn, split or cut, not further manufactured than listed or jointed; shingles of wood; spokes of hickory or oak, not further manufactured than rough turned, and not tenoned, mitred or sized, and scale board for cheese	Free	Free	Free	Free	507	507
503	Planks, boards, clapboards, laths, plain pickets, and other timber or lumber of wood, not further manufactured than sawn or split, whether cresoted, vulcanized, or treated by any other preserving process, or not	Free	Free	Free	Free	3,361	3,293
504	Planks, boards, and other lumber of wood, sawn, split or cut, and dressed on one side only, but not further manufactured	Free	Free	Free	Free		
505	Planks, boards, deals, and other lumber of wood, not further manufactured than planned, dressed, jointed, tongued or grooved, n. o. p.	10 p.c.	10 p.c	10 p.c.	10 p.c.	47	47
505a	Hardwood flooring, tongued and/or grooved, or jointed, viz: beech, birch, maple, and oak	12½ p.c.	17½ p.c.	12½ p.c.	17½ p.c.°	84	84
506	Manufactures of wood, n. o. p.	20 p.c.	20 p.c.	17½ p.c.°	17½ p.c.°	1,380	1,239
Ex 506	Shingles of cedar, creosoted, vulcanized, or otherwise processed or treated	Free	Free	Free	Free	4	(all shingles) 4
506b	Wooden doors of a height and width not less than 6 feet and 2 feet, respectively	22½ p.c.	22½ p.c.	Free	Free	5	5
507	Single-ply, sliced or rotary-cut veneers of rosewood, mahogany, or Spanish cedar, not over five-sixteenths of an inch in thickness, not taped nor jointed	10 p.c.	10 p.c	Free	Free	35	35
507a	Single-ply, sliced, or rotary-cut veneers of wood, n. o. p.., not over five-sixteenths of an inch in thickness, not taped nor jointed	15 p.c.	20 p.c	10 p.c.	10 p.c.	282	279
507c	Plywood made of two or more layers of veneer of lumber of wood, glued or cemented together, but not further manufactured	20 p.c.	22½ p.c.	17½ p.c.°	17½ p.c.°	76	64
507e	Plywood made of two or more layers of wood glued or cemented together and faced with metal on one or both sides	20 p.c.	20 p.c	5 p.c.	5 p.c.	3	3
509	Vulcanized fibre, kartavert, indurated fibre, and like material, and manufactures of, n. o. p.	17½ p.c.	17½ p.c	17½ p.c.°	17½ p.c.°	224	220
Ex 511 Ex 362c Et al	Skis and fittings therefor; ski poles	22½ p.c.	30 p.c	20 p.c.°	20 p.c.°	n. s. s.	
511a	Cricket bats, balls, gloves, and leg guards	30 p.c.	30 p.c	Free	Free	8	
511b	Fishing rods	20 p.c.	25 p.c	Free	Free	65	47
512	Picture frames and photograph frames, of any material	20 p.c.	27½ p.c	17½ p.c.°	17½ p.c.°	140	120
518	(i) Bagatelle and other game tables or boards	22½ p.c.	27½ p.c.	17½ p.c.°	17½ p.c.°	179	166
	(ii) Billiard tables, with or without pockets; cues, balls, cue-racks, and cue-tips	30 p.c.	30 p.c	17½ p.c.°	17½ p.c.°	3	1
519	House, office, cabinet or store furniture of wood, iron or other material, and parts thereof, not to include forgings, castings, and stampings of metal, in the rough:						
	(i) Substantially of wood	27½ p. c.	32½ p. c.	15 p. c.	15 p. c.	727	599
	(ii) Other than of wood	25 p. c	27½ p. c.	15 p. c.	15 p. c.	736	697
Ex 520	Raw cotton and cotton linters not further manufactured than ginned; waste wholly of cotton unfit for use without further manufacture	Free	Free	Free	Free	18,081	16,651
522	Rovings, yarns, and warps wholly of cotton, not more advanced than singles, n. o. p.	15 p. c.	15 p. c.	12½ p. c.	12½ p. c.	40	2
	and, per pound	3 cts.	3 cts.				

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
522b	Yarns, wholly of cotton, coarser than number forty but exceeding number twenty, not more advanced than singles, when imported by manufacturers for use exclusively in their own factories in the manufacturing of cotton sewing thread and crochet, knitting, darning, and embroidery cottons	15 p. c	15 p. c	7½ p. c	7½ p. c	79	
522c	(i) Rovings, yarns and warps wholly of cotton, including threads, cords, and twines generally used for sewing, stitching, packaging, and other purposes, n. o. p.; cotton yarns, wholly or partially covered with netallic strip, generally known as tinsel thread	17½ p. c	20 p. c	15 p. c	15 p. c	421	250
	and, per pound	3 cts	3 cts				
	(ii) Cotton yarns, wholly covered with a double layer of metallic strip in single strand only, when imported by manufacturers for use exclusively in the manufacture of electrical conductors, in their own factories	10 p. c	15 p. c	7½ p. c. less	3½ cts. per pound [39]	24	20
	(iii) Sewing thread, wholly of cotton, on spools, not to exceed 250 yards on one spool	20 p. c	22½ p. c	15 p. c	15 p. c	13	4
522d	Yarns and warps wholly of cotton, mercerized, number forty and finer, imported under regulations prescribed by the Minister, for sale to manufacturers, to be further manufactured in their own factories	20 p. c	22½ p. c	Free	Free	483	51
522e	Cotton sewing thread yarn and crochet, knitting, darning, and embroidery yarn, in hanks, when imported by manufacturers for use exclusively in their own factories in the manufacturing or spooling of cotton sewing thread and crochet, knitting, darning, and embroidery cottons	10 p. c	12½ p. c	5 p. c	7½ p. c	265	53
522f	Yarns and warps wholly of cotton, number forty and finer, when imported by manufacturers of mercerized cotton yarns, for use exclusively in the manufacture of mercerized cotton yarns, in their own factories	15 p. c	15 p. c	Free	Free	969	34
523	Woven fabrics, wholly of cotton, not bleached, mercerized nor coloured, n. o. p	15 p. c	17½ p. c	15 p. c	15 p. c	2,415	1,498
	and, per pound	3 cts	3 cts				
Ex 523	Seamless cotton bags	22½ p. c	27½ p. c	15 p. c	15 p. c	29	26
523a	Woven fabrics, wholly of cotton, bleached or mercerized, not coloured, n. o. p.	17½ p. c	20 p. c	17½ p. c.°	20 p. c.°	865	287
	and, per pound	3 cts	3 cts				
523b	Woven fabrics, wholly of cotton, printed, dyed or coloured, n. o. p.:						
	(i) Valued at more than 80 cents per pound	17½ p. c	20 p. c	17½ p. c.°	20 p. c.°	[40] 5,874	722
	and, per pound	3 cts	3 cts				
	(ii) Valued at 50 cents or more but not more than 80 cents per pound	22½ p. c	25 p. c	17½ p. c.°	20 p. c.°		1,021
	and, per pound	3 cets	3 cts				
	(iii) Valued at less than 50 cents per pound	25 p. c	27½ p. c	17½ p. c.°	20 p. c.°		755
	and, per pound	3½ cts	3½ cts				
	(iv) Woven fabrics, wholly of cotton, commonly known as denims, when imported by manufacturers for use in their own factories in the manufacture of garments	17½ p. c	20 p. c	17½ p. c.°	20 p. c.°		24
	and, per pound	3 cts	3 cts				

523c	Woven fabrics wholly of cotton, composed of yarns of counts of 100 or more, including all such fabrics in which the average of the count of warp and weft yarns is 100 or more	27½ p. c	27½ p. c	Free	Free	541	1
523e	Woven fabrics wholly of cotton with cut pile, n. o. p	25 p. c	27½ p. c	15 p. c	15 p. c	304	123
	and, per pound	3½ cts	3½ cts				
523f	Woven fabrics of cotton, not coloured, when imported by manufacturers of typewriter ribbon, for use exclusively in the manufacture of such ribbon in their own factories	12½ p. c	12½ p. c	Free	Free	93	9
523j	Shadow cretonnes, wholly of cotton, with printed warp and plain weft	25 p. c	27½ p. c	10 pl c	12½ p. c	69	---- ---
	and, per pound	3½ cts	3½ cts				
523k	Gabardines, wholly of cotton, with not less than 280 ends and picks of ply yarn per square inch	25 p. c	27½ p. c	10 p. c	12½ p. c	67	----
	and, per pound	3½ cts	3½ cts				
523l	Woven fabrics, wholly of cotton, composed of yarns of counts of not less than 80 and not more than 99, including all such fabrics in which the average count of the warp and weft yarns is not less than 80 and not more than 99	20 p. c	(41)	12½ p. c	12½ p. c	66	(41)
	and, per pound	3 cts					
524a	Fabrics with cut weft pile, wholly of cotton or of cotton and synthetic textile fibres or filaments	25 p. c	(41)	5 p. c	5 p. c	557	(41)
	and, per pound	3½ cts					
525	Woven fabric, wholly of cotton, specially treated and glazed, when imported by rubber manufacturers for use, in their own factories, exclusively as a detachable protective covering for uncured rubber sheeting	27½ p. c	30 p. c	Free	Free	55	14
528	White cotton bobbinet, plain, in the web	12½ p. c	25 p. c	Free	Free	19	----
529	Embroideries, lace, nets, nettings, bobbinet, n. o. p., fringes and tassels, wholly of cotton	20 p. c	Embroideries, fringe and tassels, 27½ p. c. and 3 cts. per lb.; lace, nettings and bobinet, n. o. p., 27½ p. c. and 3 cts. per lb. less 20 p. c.	15 p. c	20 p. c.°	49	30
	and, per pound	3 cts			16 p. c.°	251	16
529a	Lace and embroideries, wholly of cotton, not coloured, when imported for use exclusively by manufacturers in the manufacture of clothing, in their own factories	10 p. c	10.6 p. c	7½ p. c	7½ p. c	153	77
530	Lace and embroideries, wholly of cotton, coloured, when imported for use exclusively by manufacturers in the manufacture of clothing, in their own factories	15 p. c	17½ p. c	7½ p. c	7½ p. c	107	28
532	(i) Clothing, wearing apparel and articles made from woven fabrics, and all textile manufactures, wholly or partially manufactured, composed wholly of cotton, n. o. p	25 p. c	30 p. c	25 p. c.†	25 p. c.°	2,952	1,492
	(ii) Curtains, wholly or partially manufactured, composed wholly of cotton, n. o. p	27½ p. c	30 p. c	22½ p. c.°	25 p. c.°	282	90
	(iii) Fabrics wholly of cotton, coated or impregnated, n. o. p	27½ p. c	30 p. c	22½ p. c.°	25 p. c.°	800	647
	(iv) Cotton bags, not seamless	22½ p. c	27½ p. c	20 p. c	25 p. c.°	19	16
532a	Handkerchiefs, wholly of cotton	27½ p. c	30 p. c	12½ p. c	15 p. c	677	29
532b	Woven fabric, wholly of cotton, for covering books	27½ p. c	30 p. c	15 p. c	15 p. c	39	25

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
535	Grasses, seaweed, mosses and vegetable fibres other than cotton, not coloured, nor further manufactured than dried, cleaned, cut to size, ground and sifted; oakum of flax, hemp, or jute; coir and coir yarn	Free	Free	Free	Free	2,499	1,886
535a	Grasses, seaweed, mosses and vegetable fibres other than cotton, n. o. p.; bagasse of sugar cane, whether or not dried, cleaned, cut to size, ground or sifted	10 p. c	17½ p. c.[42]	Free	Free	14	5
537	Rovings, yarns and warps wholly or in part of vegetable fibres, not more advanced than singles, n. o. p., not to contain silk, synthetic textile fibres or filaments, nor wool	17½ p. c	17½ p. c	12½ p. c	12½ p. c	21	
Ex 537 Ex 537a	Twine for baling farm produce	Free	17½ p. c	Free	12½ p. c	n. s. s.	
537a	Rovings, yarns and warps wholly or in part of vegetable fibres, including yarn twist, cords and twines generally used for packaging and other purposes, n. o. p., not to contain silk, synthetic textile fibres or filaments, nor wool	20 p. c	22½ p. c	15 p. c	17½ p. c.°	110	23
537b	Linen thread, for hand or machine sewing	17½ p. c	22½ p. c	Free	Free	266	15
537d	Rovings, yarns and warps wholly of jute, not more advanced than singles, n. o. p., not to contain silk, synthetic textile fibres or filaments, nor wool	17½ p. c	17½ p. c	Free	Free	150	7
537e	Rovings, yarns and warps wholly of jute, including yarn twist, cords and twine generally used for packaging and other purposes, n. o. p	25 p. c	30 p. c	20 p. c.°	25 p. c.°	22	2
538	Binder twine or twine for harvest binders	Free	Free	Free	Free	1,492	60
539	Cordage, exceeding one inch in circumference, wholly of vegetable fibres, n. o. p	22½ p. c	22½ p. c	17½ p. c.°	17½ p. c.°	43	7
540	(a) Woven fabrics, in the web, wholly of flax or hemp, not to include towelling and glass cloth of crash or huck, with or without lettering or monograms woven in, nor tablecloths and napkins of crash with coloured borders	22½ p. c	30 p. c	Free	Free	665	12
	and per pound	3 cts	3½ cts				
	(b) Articles wholly of flax or hemp, such as sheets, pillowcases, tablecloths and napkins, towels and handkerchiefs, but not to include towels or or glass cloths of crash or huck, with or without lettering or monograms woven in, nor tablecloths and napkins of crash with coloured borders	20 p. c	30 p. c	Free	Free	843	7
	and, per pound	3 cts	3½ cts				
	(c) Towelling and glass cloth of crash or huck, with or without lettering or monograms woven in, table cloths and napkins of crash with coloured borders, in the web, wholly of flax or hemp; woven fabrics, in the web, composed in part of flax or hemp, not containing silk, synthetic textile fibres of filaments, nor wool	20 p. c	30 p. c	15 p. c	22½ p. c	223	3
	and, per pound	3½ cts	3½ cts	3cts.°	3 cts.°		

	(d) Towels and glass cloths of crash or huck, with or without lettering or monograms woven in, table cloths and napkins of crash with coloured borders, wholly or in part of flax or hemp, not containing silk, synthetic textile fibres or filaments, nor wool	20 p. c	30 p. c	15 p. c	25 p. c	152	1
	and, per pound	3½ cts	3½ cts	3 cts	3 cts		
541a	Woven fabrics, wholly of jute, n. o. p	22½ p. c	22½ p. c	Free	Free	34	1
541d	Canvas in the web, wholly of flax or hemp, or both, plain woven, not coloured, not further manufactred than impregnated with weather-proofing or preservative materials, suitable for manufacturing into tents, awnings, tarpaulins, hatch covers and similar articles, weighing not less than 18 ounces and not more than 26 ounces per square yard	25 p. c	30 p. c	15 p. c	15 p. c	18	
	and, per pound	3½ cts	3½ cts				
542	Woven fabrics, wholly or in part of vegetable fibres, and all such fabrics with cut pile, n. o. p., not containing silk, synthetic textile fibres or filaments, nor wool	20 p. c	24¾ p. c	17½ p. c.°	20 p. c.°	67	13
542a	Woven or braided fabrics not exceeding twelve inches in width, wholly or in part of vegetable fibres, n. o. p., not to contain silk, synthetic textile fibres or filaments, nor wool	27½ p. c	27½ p. c	22½ p. c.°	22½ p. c.°	143	44
542b	Linen fire-hose, lined or unlined	30 p. c	32½ p. c	15 p. c	15 p. c	23	
545	Lace and embroideries, wholly of flax, or of hemp, or of flax, hemp and cotton, not coloured, imported by manufacturers for use exclusively in the manufacture of clothing in their own factories	12½ p. c	13¾ p. c	12½ p. c	12½ p. c		
546	Articles made from fabrics, finished or unfinished, and all textile manufactures, wholly of jute, n. o. p.; fabrics wholly of jute, coated or unpregnated, and jute fabric backed with paper	22½ p. c	22½ p. c.[43]	12½ p. c	12½ p. c	23	6
547	Bags or sacks of hemp, linen or jute	17½ p. c	17½ p. c	15 p. c	15 p. c	127	117
548	Clothing, wearing apparel and articles, made from woven fabrics, and all textile manufactures, wholly or partially manufactured, composed wholly or in part of vegetable fibres but not containing wool, n. o. p.; fabrics coated or impregnated, composed wholly or in part of vegetable fibres but not containing silk, synthetic textile fibres or filaments, nor wool, n. o. p	25 p. c	30 p. c	25 p. c.†	25 p. c.°	1,150	417
548a	Woven dress linens containing not more than 15 percent by weight of cotton yarns for decorative effect	25 p. c	30 p. c	Free	Free	1	
	and, per pound	3½ cts	3½ cts				
549	(i) Wool not further prepared than combed, n. o. p per pound	10 cts	10 cts	Free	Free	4,508	119
	(ii) Wool, not further advanced than scoured, not including wool of the sheep of the type commonly known as karakul, when imported by carpet manufacturers for use exclusively in the manufacture of carpets, in their own factories	Free	10 cts. per lb	Free	Free	n. s. s.	
	(iii) Hair of the camel, alpaca, goat, or other like animal	Free	8 cts. per lb	Free	Free	(x)	(x)
549b	Hair, curled or dyed, n. o. p	15 p. c	17½ p. c. but horsehair 15⅞ p. c.	12½ p. c	12½ p. c	10	7
549c	Haircloth, composed of horse hair in combination with any vegetable flora	27½ p. c	27½ p. c	17½ p. c.°	17½ p. c.°	25	4
Ex549d	Nets grade from human hair	15 p. c	30 p. c	15 p. c	22½ p. c.°	n. s. s.	
550c	Garmetted wool waste in the white when imported by manufacturers of woollen goods for use exclusively in their own factories	Free	Free	Free	Free	270	10
551	Yarns, composed wholly or in part of wool or hair but not containing silk, or synthetic textile fibres or filaments, n. o. p	17½ p. c	20 p. c	15 p. c	15 p. c	550	1
	and, per pound	20 cts	20 cts	5 cts.°	6 cts.°		

See footnotes at end of table.

86697—49—pt. 2——8

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
551a	Yarns and warps composed wholly of wool or in part of wool or hair, imported by manufacturers for use exclusively in their own factories, n. o. p.	15 p. c.	17½ p. c.	10 p. c.	10 p. c.	1,711	3
	and, per pound	15 cts.	15 cts.	5 cts.°	5 cts.°		
551c	Yarns and warps composed wholly of hair or of hair and any vegetable fibre, imported by manufacturers for use in their own factories	17½ p. c.	17½ p. c.	Free	Free	69	1
	and, per pound	15 cts.	15 cts.				
551d	Yarns and warps, spun on the worsted system, composed wholly of wool or in part of wool or hair, imported by manufacturers for use in their own factories in the manufacture of woven fabrics in chief part by weight of wool or hair and not exceeding six ounces to the square yard, when in the gray or unfinished condition, under such regulations as may be prescribed by the Minister	15 p. c.	17½ p. c.	Free	Free	65	
	and, per pound	15 cts.	15 cts.				
552	Felt, pressed, of all kinds, in the web, not consisting of or in combination with any woven, knitted or other fabric or material	20 p. c.	22½ p. c.	15 p. c.	15 p. c.	26	7
	and, per pound	17½ cts.	17½ cts.	5 cts.°	5 cts.°	n. s. s.	
Ex 552	Felt, splint, for use in making molded splints for medicinal purposes	10 p. c.	10 p. c.	Free	Free		
Ex 553	Household blankets, wholly of cotton, not to include horse blankets, automobile or steamer rugs, or similar articles	17½ p. c.	20 p. c.	22½ p. c.°	22½ p. c.°	168	160
	and, per pound	5 cts.	5 cts.				
Ex 553	Blankets, wholly or in part of wool or hair, not to include horse blankets, automobile or steamer rugs, or similar articles	25 p. c.	30 p. c.	22½ p. c.°	22½ p. c.°	369	8
	and, per pound	20 cts.	25 cts.				
553a	Stereotypers' and typecasters' blankets or blanketing and press blankets or blanketing used for printing presses, of a class or kind not made in Canada	5 p. c.	5 p. c.	Free	Free	105	74
554	Woven fabrics, composed wholly or in chief part by weight of yarns of wool or hair, not exceeding in weight six ounces to the square yard, n. o. p., when imported in the gray or unfinished condition, for the purpose of being dyed or finished in Canada	20 p. c.	25 p. c.	15 p. c.	17½ p. c.	596	
	and, per pound	17½ cts.	17½ cts.	7½ cts.°	7½ cts.°		
554a	Woven fabrics, consisting of cotton warps with wefts of lustre wool, mohair or alpaca, generally known as lustres or Italian linings, n. o. p.	20 p. c.	20 p. c.	Free	Free	66	
554b	Woven fabrics composed wholly or in part of yarns of wool or hair, n. o. p.	27½ p. c.	35 p. c.	20 p. c. and 12 cts. but not more than 50 cts. per lb.°	22½ p. c. and 12 cts. but not more than 50 cts. per lb.°	8,806	62
	and, per pound	30 cts.	30 cts.				
Ex 554b	Woven fabrics, composed wholly or in chief part by weight of yarns of wool or hair, not exceeding in weight eight ounces to the square yard, n. o. p.	27½ p. c.					
	and, per pound	30 cts.					
	Provided, however, that the sum of the specific and ad valorem duties shall not be in excess of per pound	$1.00 "					

544c	Woven fabrics, composed wholly or in chief part by weight of yarns of wool or hair, not exceeding in weight four ounces to the square yard, when imported in the gray or unfinished condition, for the purpose of being dyed or finished in Canada						g
	and, per pound	20 p. c. 15 cts	25 p. c. 17½ cts	Free	Free	767	
Ex 544e Ex 549d	Filter press cloth of wool or hair (except human hair)	15 p. c.	Wool—35 p. c. and 30 cts			13	
	and, per pound	30 cts	Hair—35 p. c.	Free	20 p. c.°	12	12
554f	Woven fabrics, composed wholly or in part of yarns of wool or hair, commonly known as billiard cloth	20 p. c.	35 p. c.				
	and, per pound	25 cts	30 cts	Free	Free	50	
555	Clothing, wearing apparel and articles made from woven fabrics, and all textile manufactures, wholly or partially manufactured, composed wholly or in part of wool or similar animal fibres, but of which the component of chief value is not silk nor synthetic textile fibres or filaments, n. o. p.; fabrics, coated or impregnated, composed wholly or in part of yarns of wool or hair, but not containing silk nor synthetic textile fibres or filaments, n. o. p.	27½ p. c.	Women's and children's outer, 32½ p. c.; other, 40 p. c. and 32½ cts. per lb.	25 p. c.°	30 p. c.°	394 535	203 40
556a	Melton cloth, imported by manufacturers of tennis balls for use in the manufacture of tennis balls, in their own factories	27½ p. c.	35 p. c.				
	and, per pound	20 cts	30 cts	Free	Free	9	
556b	Slipper cloth, woven, napped on one or both sides, wholly or in part of wool, not to contain silk or synthetic textile fibres or filaments, weighing not less than 22 ounces per square yard, when imported by manufacturers of indoor footwear, to be used exclusively in the manufacture of such articles in their own factories	27½ p. c.	35 p. c.	Free	Free		
558b	Rovings, yarns and warps wholly of synthetic textile fibres, or filaments, not more advanced than singles, not coloured, with not more than seven turns to the inch, under such regulations as the Minister may prescribe:						
	(a) Produced from cellulose acetate	25 p. c.	30 p. c.	5 p. c.	5 p. c.	397	6
	but not less than per pound	24 cts	28 cts				
	(b) N. o. p.	25 p. c.	30 p. c.	20 p. c.°	20 p. c.°	734	84
	but not less than per pound	24 cts	28 cts				
558c	(i) Rovings, yarns and warps, wholly or in part of silk, n. o. p., including threads, cords or twist for sewing, embroidering or other purposes	22½ p. c.	22½ p. c.	15 p. c.	15 p. c.	45	30
	(ii) Silk yarns wholly or partially covered with matallic strip, one pound of which shall contain not less than 10,000 yards	22½ p. c.	22½ p. c.	12½ p. c.	12½ p. c.	2	
558d	Rovings, yarns and warps wholly or in part of synthetic textile fibres or filaments, n. o. p., including threads, cords or twist for sewing, embroidering or other purposes, not to contain silk; yarns of synthetic textile metallic strip, one pound of which shall contain not less than 10,000 yards; under such regulations as the Minister may prescribe: [1]						
	(a) Produced wholly from cellulose acetate	25 p. c.	30 p. c.	7½ p. c.	7½ p. c.	15	6
	Provided that, in no case, shall the duty be less than per pound	24 cts	28 cts				
	(b) N. o. p.	25 p. c.	30 p. c.	25 p. c.°	25 p. c.°	406	161
	Provided that, in no case, shall the duty be less than per pound	24 cts	28 cts				
558e	Yarns and warps, wholly of thrown silk in the gum, rovings, yarns and warps, wholly of spun silk, not coloured, imported by manufacturers for use exclusively in their own factories for knitting underwear, for weaving, or for the manufacture of silk thread	7½ p. c.	7½ p. c.	Free	Free	78	11

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
558f	Rovings, yarns, and warps wholly of spun synthetic textile fibres or filaments, not coloured, imported by manufacturers for use exclusively in the manufacture of cut-pile fabrics, in their own factories	25 p. c	30 p. c	Free	Free	94	1
	but not less than per pound	24 cts	28 cts.				
560	Woven fabrics wholly or in chief part by weight of silk in the gum, not degummed nor bleached, not less than twenty inches in width, weighing not more than seven pounds for each hundred yards thereof, imported for the purpose of being degummed, dyed and finished in Canada	25 p. c	30 p. c	17½ p. c.°	17½ p. c.°	10	----------
560a	Woven fabrics wholly or in part of silk, not to contain wool, not including fabrics in chief part by weight of synthetic textile fibres or filaments, n. o. p.	30 p. c	36 p. c	22½ p. c.°	22½ p. c.°	205	120
	and, per lineal yard	7½ cts	10 cts.				
560b	Woven fabrics, wholly of silk, twenty-six inches in width, or less, n. o. p	25 p. c	29¼ p. c	17½ p. c.°	17½ p. c.°	16	----------
560c	Woven fabrics with cut pile, whether or not coated or impregnated, wholly or in part of silk or synthetic textile fibres or filaments, but not containing wool, n. o. p	25 p. c	32½ p. c	17½ p. c.°	17½ p. c.°	252	153
561	Woven fabrics wholly or in part of synthetic textile fibres or filaments, not to contain wool, not including fabrics in chief part by weight of silk, n. o. p.	27½ p. c	36 p. c	22½ p. c.°	27½ p. c.°	1,709	443
	and, per pound	40 cts	40 cts				
562	Woven fabrics not exceeding twelve inches in width generally known as "ribbons," whether with cut pile or not, wholly or in part of silk but not containing wool	25 p. c	27½ p. c	22½ p. c.°	22½ p. c.°	84	54
562a	Woven fabrics not exceeding twelve inches in width, generally known as "ribbons," whether with cut pile or not, wholly or in part of synthetic textile fibres or filaments, but not containing silk nor wool	25 p. c	27½ p. c	22½ p. c.°	22½ p. c.°	188	85
564	Woven fabrics, of a kind not made in Canada, wholly, or in chief part, by weight, of silk or of synthetic textile fibres or filaments, or both, imported in the web in lengths of not less than five yards each by manufacturers of neckties, scarves, or mufflers, for use exclusively in the manufacture of such articles in their own factories	15 p. c	18 p. c	15 p. c	17½ p. c.°	881	323
565	Embroideries, lace, braids, cords, chenille, gimp, fringes and tassels, whether containing tinsel or not, nets, nettings, and bobbinet, n. o. p	22½	Embroideries, lace netting, 27½ p. c. Braids, cords, etc., 32½ p. c.	17½ p. c.°	22½ p. c.°	782	286
566	Plaited or braided lines and cords, nonelastic, whether of tubular or of solid construction, not exceeding one inch in circumference, wholly or in chief part by weight of vegetable fibres	30 p. c	32½ p. c	15 p. c	17½ p. c.°	8	4

567	Clothing, wearing apparel and articles, made from woven fabrics and all textile manufactures, wholly or partially manufactured, n. o. p., of which silk is the component of chief value	30 p. c	Clothing and wearing apparel, 30 p. c. Other, 30 p. c. and 7 cts. per ounce.	27½ p. c.°	27½ p. c.°	452 92	197 (Clothing) 15 (Other)
567a	Clothing, wearing apparel and articles, made from woven fabrics and all textile manufactures, wholly or partially manufactured, n. o. p., of which the component of chief value is synthetic textile fibres or filaments	27½ p. c	Clothing and wearing apparel, 32½ p. c. Other, 35 p. c. and 7 cts. per ounce, less 10 p. c.	20 p. c.° 20 p. c.°	25 p. c.° 25 p. c.°	908 199	839 97
567b	Church vestments of any material	10 p. c	15¾ p. c	10 p. c	12½ p. c	31	4
568	Knitted garments, knitted underwear and knitted goods, n. o. p	35 p. c	Knitted goods n. o. p. 35 p. c. Other, 35 p. c. and 25 cts. per lb.	20 p. c.°	20 p. c.°	739 497	123 85
568a	Socks and stockings:						
	(i) Of wool	27½ p. c	32½ p. c	20 p. c.°	20 p. c.°	475	----
	and, per dozen pairs	$1.20	$1.35	30 cts	30 cts		
	(ii) N. o. p	20 p. c	20 p. c	20 p. c.°	20 p. c.°	28	13
	and, per dozen pairs	75 cts	$1.00				
568b	Gloves and mitts of all kinds, n. o. p	25 p. c	25 p. c	20 p. c.°	20 p. c.°	878	95
Ex 568b	Gloves of kid, n. o. p	22½ p. c	25 p. c	20 p. c.°	20 p. c.°	642	17
568c	Women's dress gloves of kid, elbow length	10 p. c	22¾ p. c	Free	Free	10	----
569 (i)	Hats, hoods and shapes of fur felt or of wool-and-fur felt, under such regulations as the Minister may prescribe	22½ p. c	30 p. c	17½ p. c.°	22½ p. c.°	268	85
569 (v)	Hats, n. o. p	27½ p. c	30 p. c	22½ p. c	22½ p. c	93	62
	and, per dozen	$1.00	$1.50	75 cts.°	75 cts.°		
569a (i)	Berets of wool, knitted and fulled	22½ p. c	30 p. c	22½ p. c.°	22½ p. c.°	1	----
	and, per dozen	50 cts.	65 cts. less 10 p. c.				
569a (ii)	Caps, bonnets and berets, n. o. p., under such regulations as the Minister may prescribe	27½ p. c	Berets 27 p. c Other 30 p. c	22½ p. c.°	22½ p. c.°	93	58
569e	Firemen's helmets; safety helmets for industrial purposes; parts of such helmets	Free	Free	Free	Free	36	36
Ex 571	Carpeting, rugs, stair pads, mats and matting of straw, hemp, flax tow or jute	20 p. c	22½ p. c	15 p. c	15 p. c	n. s. s.	
571a	(i) Mats with cut pile, of cocoa fibre, per sq. ft	3 cts	4 cts	2¼ cts	3 cts	6	----
	(ii) Mats, n. o. p., rugs, carpeting and matting in cocoa fibre, per square yard	7½ cts	9 cts	6¾ cts	7½ cts	21	----
572	Oriental and imitation Oriental rugs or carpets and carpeting, carpets and rugs, n. o. p	25 p. c	30 p. c	25 p. c.°	30 p. c.°	842	45
	and, per square foot	5 cts	7½ cts				
573	Enamelled carriage, floor, shelf and table oilcloth, linoleum, and cork matting or carpets	27½ p. c	30 p. c	15 p. c	15 p. c	973	583
574a	Webbing, with strands of rubber interwoven or braided therein, not exceeding twelve inches in width, n. o. p.; round elastic braid	25 p. c	29¼ p. c	20 p. c.°	20 p. c.°	167	114
578	Regalia, badges and belts of all kinds, n. o. p	27½ p. c	30 p. c	22½ p. c.°	22½ p. c.°	153	106
584	Resin or rosin; bone pitch, crude only	Free	Free	Free	Free	723	721
585	Coal and pine pitch, burgundy pitch; and coal and pine tar, crude, in packages of not less than fifteen gallons	Free	50 cts	Free	Free	359	352
586	Coal, anthracite, n. o. p	Free	50 cts	Free	Free	21,899	14,037

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
587	Coke, n. o. p.	$1.00	$1.00	Free	Free	1,894	1,872
588	Coal, n. o. p., including screenings and coal dust of all kinds, per ton	50 cts	75 cts	35 cts	35 cts	18,918	18,486
588a	Gas for heating, cooking or illuminating, imported by pipe line, per one thousand cubic feet	3 cts	3 cts			75	75
589	Charcoal made from wood, per ton	$4.00	$4.00	Free	Free	15	15
597	(i) Pianofortes and organs, n. o. p.	22½ p. c.	24¾ p. c. but not less than $75.	20 p. c.°	20 p. c.°	73	73
	(ii) Pipe organs	15 p. c.		15 p. c.		3	3
597a	(i) Musical instruments of all kinds, n. o. p.	17½ p. c.	24¾ p. c.	15 p. c.	15 p. c.	246	106
	(ii) Phonographs, graphophones, gramophones and finished parts thereof, n. o. p., including cylinders and records therefor	20 p. c.				569	529
	(iii) Mechanical piano and organ players	20 p. c.				n.s. s., included with 597a (i)	
Ex 597a	Cylinders or records specially made for use in the study of languages, under such regulations as may be prescribed by the Minister	Free	Free	Free	Free	n. s. s.	
597b	Harps	15 p. c.	24¾ p. c.	Free	Free	(46)	
597c	Strings for musical instruments	15 p. c.	20 p. c.	10 p. c.	10 p. c.	(46)	
598	(i) Brass band instruments, n. o. p.	20 p. c.	25 p. c.	Free	Free	17	8
	(ii) Pipe organ player actions and parts thereof; parts of pipe organs, n. o. p.	15 p. c.	22½ p. c.	Free	Free	n. s. s.	
	(iii) Parts of pianofortes and parts of organs, n. o. p.	20 p. c.	22½ p. c.	Free	Free	26	19
598a	(i) Brass band instruments, of a class or kind not made in Canada	17½ p. c.	25 p. c.	Free	Free	79	38
	(ii) Bagpipes and complete parts thereof	25 p. c.	25 p. c.	Free	Free		
599	Hides and skins, raw, whether dry, salted, or pickled; and raw pelts	Free	Free	Free	Free	6,173	2,509
601	Fur skins of all kinds, not dressed in any manner	Free	Free	Free	Free	5,053	3,829
602	Astrakhan or Russian hare skins, China goat plates or rugs, and China goat skins, wholly or partially dressed, but not dyed	Free	Free	Free	Free	23	19
603	Fur skins wholly or partially dressed, n. o. p.	12½ p. c.	13½ p. c.	10 p. c.	10 p. c.	574	224
Ex 603	Karakul skins, wholly or partially dressed, but not dyed	Free	13½ p. c.	Free	10 p. c.	n. s. s.	
604	(i) Belting leather in butts or bends: and all leather further finished than tanned, n. o. p.	17½ p. c.	20 p. c.	7½ p. c.	7½ p. c.	1,792	981
	(ii) Sheepskin or lambskin leather, further finished than tanned, n. o. p.	22½ p. c.	25 p. c.	7½ p. c.	7½ p. c.		
604a	Crust oil leather, for use in manufacturing chamois leather	10 p. c.	24¾ p. c.	Free	Free	17	
604b	Sole leather	22½ p. c.	25 p. c.	12½ p. c.	12½ p. c.	101	19
605	(i) Leather produced from East India tanned kip, uncoloured or coloured other than black, when imported for use exclusively in lining boots and shoes	15 p. c.	15 p. c.	Free	Free	332	1
	(ii) Genuine reptile leathers	7½ p. c.	15 p. c.	Free	Free	n. s. s.	
605a	Genuine pig leathers and genuine Morocco leathers; so-called roller leathers	20 p. c.	25 p. c.	Free	Free	217	24
606	Leather produced from East India tanned kip, n. o. p.	25 p. c.	25 p. c.	20 p. c.	20 p. c.	1	
	and, per square foot	2 cts	4 cts.	2 cts.°	4 cts.°		

607	Leather, when imported by manufacturers of gloves or leather clothing, for use exclusively in manufacturing gloves or leather clothing, in their own factories	7½ p.c	7½ p.c	Free	Free	477	424
607	Leather, consisting of beef-cattle hides, horsehides or sheepskins, but not including Suedes, Cabrettas, Spanish capes or African capes, when imported by manufacturers of gloves or leather clothing, for use exclusively in manufacturing gloves or leather clothing in their own factories	15 p.c	15 p.c	Free	Free	43	38
607a	Leather, not further finished than tanned, in whole hides, in grains, or splits, when imported by manufacturers of upholstering leathers, for use exclusively in the manufacture of upholstering leathers, in their own factories	15 p.c	15 p.c	Free	Free	65	28
608	Leather not further finished than tanned, and skins, n. o. p	15 p.c	15¾ p.c	5 p.c	5 p.c	173	43
609	Belting, of leather	22½ p.c	25 p.c	10 p.c	10 p.c	64	46
610	Belting, n. o. p	20 p.c	25 p.c	7½ p.c	7½ p.c	261	198
611a	(i) Boots, shoes, slippers and insoles of any material, n. o. p	27½ p.c	30 p.c	20 p.c.°	22½ p.c.°	1,749	1,150
	(ii) Canvas shoes with rubber soles	27½ p.c	35 p.c	20 p.c.°	22½ p.c.°	48	18
611b	Leather garments, lined or unlined	27½ p.c	30 p.c	17½ p.c.°	20 p.c.°	5	2
612	Harness and saddlery, including horse boots, n. o. p	20 p.c	22½ p.c	15 p.c	17½ p.c.°	153	63
612a	English type saddles	27½ p.c	27½ p.c	10 p.c	10 p.c	5	
613	Manufactures of leather, including manufactures of rawhide, n. o. p	22½ p.c	25 p.c	17½ p.c.°	20 p.c°	324	230
616	Ex (ii) Recovered rubber and rubber substitute	Free	Free	Free	Free	761	761
	Ex (iii) Latex, being crude natural rubber in liquid form, not compounded beyond the addition of preservatives	Free	Free	Free	Free	448	232
616a	Balata, crude, unmanufactured	10 p.c	10 p.c	Free	Free	4	4
616b	Gutta percha, unmanufactured	10 p.c	10 p.c	Free	Free	8	
617	Rubber boots and shoes	22½ p.c	22½ p.c	Free	Free	42	33
618	Rubber cement and all manufactures of rubber and gutta percha, n. o. p	20 p.c	22½ p.c	15 p.c	15 p.c	1,859	1,506
618b	Tires of rubber for vehicles of all kinds, fitter or not	25 p.c	25 p.c	22½ p.c.°	22½ p.c.°	583	425
619	Rubber or gutta percha hose, and cotton hose lined with rubber; rubber mats or matting and rubber packing	22½ p.c	22½ p.c	20 p.c.°	20 p.c.°	268	255
619a	Rubber clothing and clothing made from waterproofed cotton fabrics	27½ p.c	30 p.c	22½ p.c.°	25 p.c.°	100	18
622	Trunks, valises, hat boxes, carpet bags, tool bags, and baskets of all kinds, n. o. p	22½ p.c	30 p.c	12½ p.c	15 p.c	161	84
623	Musical instrument cases and fancy cases or boxes of all kinds, portfolios and fancy writing desks, satchels, reticules, card cases, purses, pocketbooks, fly books and parts thereof	22½ p. c	30 p. c	12½ p. c	15 p. c	1,491	1,041
624	Bead ornaments, and ornaments of alabaster, spar, amber, terra cotta or composition; fans of all kinds; statues and statuettes of any material, n. o. p	17½ p. c	Alabaster ornaments, statues and statuettes, 23⅜ p. c. Other 24¾ p. c.	17½ p. c.†	20 p. c.°	111	28
624a	(i) Dolls	25 p. c	30 p. c	10 p. c	10 p. c	62	28
	Toys of all kinds, n. o. p	30 p. c	30 p. c	10 p. c.[47]	10 p. c.[47]	1,088	755
	(ii) Mechanical toys of metal	30 p. c	30 p. c	10 p. c	10 p. c	218	174
	(iii) Juvenile construction sets of metal or rubber, consisting of various stampings, punched or moulded, and connections therefor; parts of the foregoing:						
	(a) Of metal	25 p. c	30 p. c	Free	Free	41 n. s. s.	1
	(b) Of rubber	20 p. c					

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
624b	Statues and statuettes of porcelain or earthenware	17½ p. c	24¾ p. c	Free	Free	76	23
625	Caps, hats, muffs, tippets, capes, coats and cloaks of fur, and other manufactures of fur, n. o. p	25 p. c	30 p. c	15 p. c	15 p. c	216	90
628	Braces or suspenders, and finished parts thereof	22½ p. c	27 p. c	15 p. c	15 p. c	128	120
629	Umbrellas, parasols, and sunshades of all kinds and materials	25 p. c	27 p. c	22½ p. c.°	22½ p. c.°	47	28
634	Feathers and manufactures of feathers, n. o. p.; artificial feathers, fruits, grains, leaves, and flowers suitable for ornamenting hats	12½ p. c	23⅜ p. c	20 p. c.°	20 p. c.°	254	104
642	Hatters' furs, not on the skin	Free	Free	Free	Free	916	203
647	Jewelery of any material, for the adornment of the person, n. o. p	32½ p. c	35 p. c	22½ p. c.°	25 p. c.°	1,048	853
Ex 648a	Diamonds, rough or uncut, and not advanced in condition or value from their natural state by cleaving, splitting, cutting, or other process, whether in their natural form or broken	Free	Free	Free	Free	1,406	155
649	Shoe buttons, n. o. p	20 p. c	20 p. c	Free	Free	1	1
650a	Button blanks of animal shell, in the rough	Free	Free	Free	Free	106	23
651	Buttons of all kinds, covered or not, and button blanks other than in the rough, n. o. p.; recognition buttons and cuff or collar buttons	25 p. c	30 p. c	20 p. c	20 p. c	225	171
	and, per gross	5 cts	5 cts	5 cts.°	5 cts.°	----------	----------
651a	Buttons, and button blanks other than in the rough, of vegetable ivory	25 p. c	30 p. c	20 p. c	20 p. c	----------	----------
	and, per gross	10 cts	10 cts	5 cts.°	5 cts.°		
652	Toilet or dressing combs, n. o. p.; fancy combs, not being jewelery	20 p. c	25 p. c	10 p. c	10 p. c	130	50
	but not less than per gross	$1.44	$1.50				
653	Brushes of all kinds, n. o. p	25 p. c	30 p. c	15 p. c	15 p. c	334	191
654	(i) Bristles, natural	Free	Free	Free	Free	478	374
	(ii) Broom corn	Free	Free	Free	Free	261	234
655	(i) Pens, n. o. p., penholders and rulers, of all kinds	22½ p. c	25 p. c	12½ p. c	12½ p. c	145	79
	(ii) Pen nibs of steel	12½ p. c	25 p. c	Free	12½ p. c	n. s. s.	
655a	Lead pencils and crayons, n. o. p	30 p. c	35 p. c	10 p. c	10 p. c	186	104
655b	Crayons of chalk or chalklike material, colored or not	20 p. c	20 p. c	10 p. c	10 p. c	90	65
656	(a) Tobacco pipes of all kinds	22½ p. c	29¼ p. c	17½ p. c.°	17½ p. c.°		
	(b) Cigar and cigarette holders	25 p. c	29¼ p. c	17½ p. c.°	17½ p. c.°		
	(c) Cases for cigar and cigarette holders, cigar and cigarette cases, smokers' sets and cases therefor, and tobacco pipe mounts	25 p. c	29¼ p. c	17½ p. c.°	17½ p. c.°	455	49 63
	(d) Tobacco pouches	25 p. c	32½ p. c	17½ p. c.°	17½ p. c.°		
657a	Cinematograph or moving-picture films, positives, one and one-eighth of an inch in width and over, n. o. p. per linear foot	1½ cts	2¼ cts	1½ cts	1½ cts	352	253
657b	Parts, unfinished, when imported by manufacturers of cameras, for use in the manufacture of cameras, in their own factories	5 p. c	5 p. c	Free	Free	78	77
658	Film of standard width (one and one-eighth of an inch and over) when imported for the sole purpose of having 16 millimeter reproductions made therefrom and provided that the original is reexported within 3 months from date of importation	Free	3 cts. per linear foot.	Free	Free	----------	----------
659	Photographic dry plates	25 p. c	27½ p. c	15 p. c	15 p. c	23	11
662	Fertilizers, unmanufactured, including phosphate rock, kainite or German potash salts and German mineral potash; bone-dust, charred bone and bone ash, fish offal or refuse and animal or vegetable manures	Free	Free	Free	Free	474	49 474

663	Fertilizers, compounded or manufactured, n. o. p.	5 p. c.	5 p. c.	Free	Free	238	76
663b	Articles which enter into the cost of the manufacture of fertilizers, when imported for use exclusively in the manufacture of fertilizers	Free	Free	Free	Free	112	103
663c	Soya beans, soya bean oil cake and soya bean oil meal, when imported for use as animal or poultry feeds, or as fertilizer, or when imported for use in the manufacture of animal or poultry feeds or fertilizers	Free	Free	Free	Free	572	544
663e	Seaweeds or sea plants, charred, whether powdered or not, for use exclusively in the feeding of animals	15 p. c.	22½ p. c.	Free	Free		
663f	Iodized mineral salts, for use exclusively in the feeding of animals	15 p. c.	22½ p. c.	Free	Free	3	
669	Emery (including corundum and garnet), in bulk, crushed or ground	Free	Free	Free	Free	56	54
670	Grinding wheels, stones or blocks, manufactured by the bonding together of either natural or artificial abrasives; manufactures of emery or of artificial abrasives, n. o. p.	20 p. c.	22½ p. c.	10 p. c.	10 p. c.	167	159
674	Ivory and ivory nuts, piano key ivories and veneers of ivory unmanufactured	Free	Free	Free	Free	4	1
680	Fossils, shells, tortoise and mother-of-pearl, and other shells unmanufactured	Free	Free	Free	Free	6	6
680a	Sponges of marine production	15 p. c.	17½ p. c.	Free	Free	72	12
683	Barytes	25 p. c.	25 p. c.	Free	Free	39	29
684	Rubber thread, not covered	10 p. c.	10 p. c.	Free	Free	50	43
685	Pantographs and parts thereof, including diamond points, and engraving mills, for engraving copper rollers used in printing textiles and wallpapers; blankets, blanketing and lapping imported for use exclusively by textile manufacturers and wallpaper printers	Free	Free	Free	Free	70	29
688	Artificial teeth, not mounted, and materials for use only in the manufacture thereof	Free	Free	Free	Free	439	430
689	Charcoal, animal, for use in the refining of sugar	25 p. c.	25 p. c.	Free	Free	105	1
710	(b) Usual coverings containing goods, not machinery, subject to any ad valorem duty, when not included in the invoice value of the goods they contain	7½ p. c.	18 p. c.	Free	10 p. c.	1,225	430
	(bb) Usual coverings containing machinery subject to any ad valorem duty, when not included in the invoice value of the goods they contain	7½ p. c.	15 p. c.	Free	5 p. c.	40	13
711	All goods not enumerated in this schedule as subject to any other rate of duty, and not otherwise declared free of duty, and not being goods the importation whereof is by law prohibited Provided that duty shall not be deemed to be provided for by this item upon dutiable goods mentioned as "n. o. p." in any preceding tariff item. Provided further that when the component material of chief value in any nonenumerated article consists of dutiable material enumerated in this schedule as bearing a higher rate of duty than is specified in this tariff item, such nonenumerated article shall be subject to the highest duty which would be chargeable thereon if it were composed wholly of the component material thereof of chief value, such "component material of chief value" being that component material which shall exceed in value any other single component material in its condition as found in the article.	20 p. c.	20 p. c.	15 p. c.	15 p. c.	5,729	4,406
Ex 711	Roofing granules, whether or not coloured or coated	15 p. c.	20 p. c.	15 p. c.	15 p. c.	n. s. s.	
Ex 711	Hominy grits, corn grits, hominy feeds, and brewers' corn grits	10 p. c.	20 p. c.	10 p. c.	15 p. c.	n. s. s.	
Ex 711	Vegetable colourings	10 p. c.	20 p. c.	10 p. c.	15 p. c.	149	137
Ex 711	Vegetable flavourings	10 p. c.	20 p. c.	10 p. c.	15 p. c.	n. s. s.[80]	
Ex 711	Activated clay, when imported for use in the refining of oils	10 p. c.	10 p. c.	10 p. c.	10 p. c.	130	130
Ex 711	Oyster shells, not further manufactured than crushed or screened, or both, for use as poultry feeds or in the manufacture of poultry feeds	10 p. c.	20 p. c.	10 p. c.	10 p. c.	93	93
Ex 711	Mica, phlogopite and muscovite, unmanufactured, in blocks, sheets, splittings, films, waste and scrap	12½ p. c.	10 p. c.	12½ p. c.	15 p. c.	n. s. s.[81]	

See footnotes at end of table.

Canadian tariff item No.	Description of products	Most-favored-nation rate		Lowest preferential rate		Imports in 1939 (in $1,000 Canadian)	
		New	Preagreement	New	Preagreement	From all countries	From United States
Ex 711	Coal-tar benzol, when imported by refiners of crude petroleum, for use exclusively in blending with gasoline wholly produced in Canada	10 p. c	10 p. c	10 p. c	10 p. c	7	7
Ex 711	Vermiculite, crude, or not further processed than ground and screened	10 p. c	10 p. c	10 p. c	10 p. c	8	8
Ex 711	Asbestos, crude	Free	20 p. c	Free	15 p. c	n. s. s.	
Ex 711 154	Mineral and medicinal waters, natural, under regulations prescribed by the Minister	Free	20 p. c	Free	15 p. c	70	18
Ex 711	Potassic nitrate of soda, n. o. p	Free	20 p. c	Free	15 p. c	n. s. s.	
Ex 711 Ex 445c Ex 445d et al	Quartz, piezoelectric: (i) Not further processed than cut into slabs or blanks and ground to shape	Free	20 p. c	Free	15 p. c	n. s. s.	
	(ii) Fully manufactured, ready for use in electric telephone, telegraph, wireless or radio apparatus	10 p. c	25 p. c	10 p. c	Free	n. s. s.	
756	Artificial abrasive grains, crushed or ground, when imported for use in Canadian manufactures	Free	Free	Free	Free	643	640
792	Cotton pulp imported by manufacturers for use exclusively in their own factories in the manufacture of yarns of synthetic textile fibres or filaments, under regulations to be prescribed by the Minister	Free	Free	Free	Free	226	226
797	Yarns, wholly of cotton, number forty and finer, not more advanced than singles, when imported by manufacturers for use exclusively in their own factories in the manufacturing of cotton sewing thread	10 p. c	10 p. c	Free	Free	528	
802	Materials and parts as hereunder specified, when imported by manufacturers of umbrellas, parasols, sunshades, walking sticks or canes, under such regulations as the Minister may prescribe, for use in the manufacture of such articles in their own factories:						
	(a) Mounts, sticks, rods, ribs, runners, rings, caps, notches, tips, ferrules and assembled frames	Free	5 p. c	Free	Free	136	103
	(b) Umbrella-covering fabrics of a kind not made in Canada, whether or not specially treated but not further manufactured than with hemmed selvedges, when imported in lengths of not less than ten yards each, with or without natural selvedges	Free	9 and 10 p. c.	Free	Free	74	41
825	Woven cord tire fabric, wholly or in chief part by weight of synthetic textile fibres or filaments, not to contain silk or wool, coated with a rubber composition, when imported by manufacturers of rubber, to be incorporated by them in pneumatic tires, in their own factories	15 p. c	17½ p. c. and 3½ cts. per pound.	Free	Free	217	217
826	Wire drawing dies in the rough, not being complete parts of machinery, and materials or articles entering into their manufacture	5 p. c	10 p. c	Free	Free	n. s. s.	
833	Methyl ethyl ketone imported by Canadian manufacturers under such regulations as the Minister may prescribe, for use exclusively as a solvent for polyvinyl chloride	Free	Free	Free	Free		
838	Oiticica oil	Free	For mfg. 2 cts. per lb.; other 20 p. c.	Free	For mfg. 1¼ cts. per lb.; other, 15 p. c.		(52)

[1] Prior to April 1, 1939, included with preceding item.
[2] Imports of frozen rabbits from Australia and New Zealand free.
[3] Post-Geneva tariff change made refined but not bleached beeswax free from preference countries.
[4] Roquefort, Camembert, Pont L'Eveque, Bleu d'Auvergne, Munster 5.95 cts.
[5] Reduced to Geneva rate on November 11, 1947, in consideration of rising cost of living.
[6] Reduced to free from British countries and to 2 cents from others in November 18, 1947, in consideration of rising cost of living.
[7] For second portion of the item, trade available only from April 25, 1939.
[8] Nearly all wheat flour.
[9] Most important of various end use classifications was 276b for oil and meal manufacture.
[10] Includes orchids, for which trade not stated separately.
[11] Free entry to American lobsters granted temporarily from September 1, 1946, to February 15, 1947.
[12] Change from $3.90 and 25 percent on June 28, 1946.
[13] Unless otherwise noted specifically, liquid measure is Imperial; i. e., 1.2 U. S. gallons, quarts, or pints, as the case may be.
[14] From June 24, 1942, under item 152b, product of the British West Indies on direct entry.
[15] Proof is British proof; i. e., 1 Imperial proof gallon equals 1.37053 U. S. proof gallons. Item 156 provides that "when of greater or less strength than the strength of proof, the measurement thereof and the amount of duty payable thereon shall be increased or decreased in proportion for any greater or less strength than the strength of proof."
[16] Reduced from 15 p. c. in budget of June 27, 1944.
[17] Not for refining of oils for which use free, item 263b.
[18] Added by budget of June 1944; imports in 1946, whole item or above, $47,352 of which $45,950 from United States.
[19] Reduced by budget of June 26, 1944, from 22½ percent most-favored nation and 5 percent British preferential.
[20] New item from June 26, 1944, which reduced rates previously applied via item 220 (i) and 220 (ii).
[21] Trade includes caustic calcined and plastic magnesite but not calcined magnesite imported for manufacture of insulating materials.
[22] I. e. not platinum.
[23] Trade consisted of glass shades or globes, opal and illuminating glassware, n. o. p., total, $69,832, of which US$52,269; glass tableware (not machine made) and cut glassware $949,354 of which US$579,524.
[24] (i) 7.2 percent ad val on basis of imports in 1947 when United States contribution was almost negligible in this category.
(ii) 10 percent ad val on basis of imports in 1947 which were mostly plates, sheets, strips, and circles.
[25] The preferential schedule specifies that the 15 percent rate will be effective as soon as the necessary Canadian legislation can be enacted.
[26] The lower rate applies to goods of a class not made in Canada.
[27] The low rate bound by the 1938 trade agreement with the United States were eliminated by the budget of June 27, 1944, which gave these items free entry.
[28] From April 1, 1939, only; previously included with 414c (i).
[29] Tape line of any material 22½ p. c.
[30] Reduction from 30 percent (mfn) and 15 percent (preferential) from June 24, 1942.
[31] New item dating from June 27, 1944; the trade shown is for 1947.
[32] N. s. s. for 1939; for 1947, 440n imports valued at $4,179,272, of which $744,492 from U. S. 440o imports valued at $1,666,623 of which $543,851 from U. S.
[33] Not the complete year; available only from April 25, 1939; 1947 imports, total $2,575,893 from US $2,561,465.
[34] Not the complete year; available only from April 25, 1939; 1947 imports total $511,747, all from U. S.
[35] Item dates from May 1, 1946. Trade shown is for 1947.
[36] Includes all skates; roller skates n. s. s.
[37] New item from May 1, 1945; trade shown is for 1946.
[38] Reduced from 7½ p. c. on result of reduction of mfn rate by 1939 trade agreement with U. S. and preference margin bound to United Kingdom in 1937.
[39] Resulting from 15 percent rate extended to U. S. in 1939 trade agreement and margin bound to United Kingdom in 1937.
[40] No breakdown by category available for total imports in 1939; subsequent years provide no index of competition because of special conditions affecting contribution of oversea suppliers, particularly the United Kingdom.
[41] Before Geneva, no mfn rate was indicated and no trade was shown, except from the United Kingdom.
[42] But fibers of raffia or sisal, n. o. p., 14 percent.
[43] But jute fabric, backed with paper, 25 percent.
[44] There has been no segregation of 8 oz. fabric in imports. The average value of all 554b items from the United States in 1939 was Can. $1.79 per pound, and from the United Kingdom, Can. $1.12.
[45] Imports in 1947, 7 valued at $13,680, all from the U. S.
[46] Imports in 1947, $61,759, of which from the U. S., $58,628.
[47] Toys representing kangaroos or koala bears, free.
[48] Classification of trade is as follows: Tobacco pipes of all kinds, pipe mounts, cigar and cigarette holders and smokers' sets total imports $385,846, of which imports from United States $44,995. Tobacco pouches, pipe, cigar and cigarette cases, $68,693, from the United States $18,036.
[49] No trade in 1939; that given is for 1947.
[50] Not segregated in 1939: 1947 import, total $302,527, of which $284,087 from the United States.
[51] Imports of mica and manufactures, 1939, total $61,835, of which $46,696 from the United States.
[52] 1946 import, total, 8,228 tons valued at $165,575; of which all but $737 from Brazil, all for use in Canadian manufactures.

*_Seasonal Tariff:_ Because of the short season for locally grown fruits and vegetables, and the desirability of large imports at other times, the Canadian tariff embodies the principle of advanced seasonal protection for local growers, the tariff at other periods remaining low. At Geneva, an important change was negotiated in the manner of applying this seasonal tariff. Whereas it has been essentially a dumping duty; i. e., *applied in toto in addition to* the 10-percent normal duty on the advanced valuation, it has now become a seasonal tariff applied *in lieu of* the 10-percent normal duty during the period for which it is proclaimed. The language of the Geneva Agreement is as follows: "*Provided*, that, as regards such of those fresh fruits and vegetables dutiable under tariff items 84, 85, 87, 92, 94, and 95, as are marked with an asterisk in this Schedule, the specific duty set opposite thereto shall not be maintained in force in any twelve months ending March 31 for a period in excess of the number of weeks set forth thereunder; *And provided*, that, as regards fresh fruits and vegetables dutiable under subitems (b), (d), (e), (f), (g), and (i), of tariff item 87, the number of weeks during which the specific duty may be maintained in force may be divided into two separate periods, the combined duration of which shall not exceed the number of weeks set forth thereunder; *And provided further*, as regards such of those fresh fruits and vegetables dutiable under the aforesaid tariff items as are marked with an asterisk, that whenever the specific duty is not levied, the ad valorem duty of 10 per centum shall apply."

°Nominal rate less 10 percent is probably effective. (See foreword.)

†Effective preferential rate will rise if Parliament concurs in the amendment of the Customs Act. (See foreword.)

Senator MILLIKIN. Mr. Chairman, except as interrupted, I would like to develop the relationship between the general agreement on tariffs and trade made at Geneva and the proposed ITO which has not yet been sent to the Congress.

It is my theory that we cannot give sensible consideration to an extension of the Reciprocal Trade Act without understanding what the reciprocal trade practices are under the general agreement on tariffs and trade, and what that leads to so far as ITO is concerned.

I state that the general agreement on tariffs and trade serves as a Judas goat for ITO and was intended to serve that purpose.

The CHAIRMAN. Is there any part of it that is not in the record physically? Is there any part of any of the ITO and the Geneva agreements not in the record? They are available.

I just wondered if there was anything that you wanted in the record.

Senator MILLIKIN. I am coming to that, Senator. As I understand by inadvertence the general agreement on tariffs and trade, together with contrasting or comparable sections in the ITO, have been put in the record. Am I correct on that, Mrs. Springer?

Mrs. SPRINGER. I think that is correct, Senator.

Senator MILLIKIN. I think we can dispense with putting another copy of the general agreement in the record. I ask, Mr. Chairman, that we put the proposed ITO Charter in the record so we may have the entire plan before us.

The CHAIRMAN. We have a completed ITO Charter. If we have that, I do not know its status. If we have a sufficient number of copies of the ITO agreement to furnish each Senator a copy along with the hearings, would that be sufficient?

Senator MILLIKIN. That would be sufficient.

The CHAIRMAN. If we have those copies.

Senator MILLIKIN. I want to be assured that every Senator will have the complete copy before him and, of course, I do not want to encumber the record but it would be more convenient if we could have these things, under a limited number, of course, as it is impressed on the Senators more. It is difficult enough to get the Senators to read them.

The CHAIRMAN. We might incorporate those in the record.

Let me inquire, Are you able to furnish for the record a completed ITO Charter?

Mr. BROWN. Yes. We are able to provide the charter which was agreed to by the representatives of various countries meeting at Habana. We could provide it either in sufficient numbers of separate copies or as a copy for inclusion in the record, whichever the committee approves.

The CHAIRMAN. Suppose we include it in the record, and it is a little lengthy, but we can do that.

(The charter is as follows:)

HAVANA CHARTER FOR AN INTERNATIONAL TRADE ORGANIZATION

MARCH 24, 1948

[Department of State publication 3206, commercial policy series 114, released September 1948—division of publications, office of public affairs]

CHAPTER I—PURPOSE AND OBJECTIVES

ARTICLE 1

RECOGNIZING the determination of the United Nations to create conditions of stability and well-being which are necessary for peaceful and friendly relations among nations,

THE PARTIES to this Charter undertake in the fields of trade and employment to co-operate with one another and with the United Nations.

For the Purpose of

REALIZING the aims set forth in the Charter of the United Nations, particularly the attainment of the higher standards of living, full employment and conditions of economic and social progress and development, envisaged in Article 55 of that Charter.

TO THIS END they pledge themselves, individually and collectively, to promote national and international action designed to attain the following objectives:

1. To assure a large and steadily growing volume of real income and effective demand, to increase the production, consumption and exhange of goods, and thus to contribute to a balanced and expanding world economy.

2. To foster and assist industrial and general economic development, particularly of those countries which are still in the early stages of industrial developlarly of those countries which are still in the early stages of industrial development, and to encourage the international flow to capital for productive investment.

3. To further the enjoyment by all countries, on equal terms, of access to the markets, products and productive facilities which are needed for their economic prosperity and development.

4. To promote on a reciprocal and mutually advantageous basis the reduction of tariffs and other barriers to trade and the elimination of discriminatory treatment in international commerce.

5. To enable countries, by increasing the opportunities for their trade and economic development, to abstain from measures which would disrupt world commerce, reduce productive employment or retard economic progress.

6. To facilitate through the promotion of mutual understanding, consultation and co-operation the solution of problems relating to international trade in the fields of employment, economic development, commercial policy, business practices and commodity policy.

Accordingly they hereby establish the INTERNATIONAL TRADE ORGANIZATION through which they shall co-operate as Members to achieve the purpose and the objectives set forth in this Article.

CHAPTER II—EMPLOYMENT AND ECONOMIC ACTIVITY

ARTICLE 2—IMPORTANCE OF EMPLOYMENT, PRODUCTION AND DEMAND IN RELATION TO THE PURPOSE OF THIS CHARTER

1. The Members recognize that the avoidance of unemployment or underemployment, through the achievement and maintenance in each country of useful employment opportunities for those able and willing to work and of a large and steadily growing volume of production and effective demand for goods and services, is not of domestic concern alone, but is also a necessary condition for the achievement of the general purpose and the objectives set forth in Article 1, including the expansion of international trade, and thus for the well-being of all other countries.

2. The Members recognize that, while the avoidance of unemployment or underemployment must depend primarily on internal measures taken by individual

countries, such measures should be supplemented by concerted action under the sponsorship of the Economic and Social Council of the United Nations in collaboration with the appropriate inter-governmental organizations, each of these bodies acting within its respective sphere and consistently with the terms and purposes of its basic instrument.

3. The Members recognize that the regular exchange of information and views among Members is indispensable for successful co-operation in the field of employment and economic activity and should be facilitated by the Organization.

ARTICLE 3—MAINTENANCE OF DOMESTIC EMPLOYMENT

1. Each Member shall take action designed to achieve and maintain full and productive employment and large and steadily growing demand within its own territory through measures appropriate to its political, economic and social institutions.

2. Measures to sustain employment, production and demand shall be consistent with the other objectives and provisions of this Charter. Members shall seek to avoid measures which would have the effect of creating balance-of-payments difficulties for other countries.

ARTICLE 4—REMOVAL OF MALADJUSTMENTS WITHIN THE BALANCE OF PAYMENTS

1. In the event that a persistent maladjustment within a Member's balance of payments is a major factor in a situation in which other Members are involved in balance-of-payments difficulties which handicap them in carrying out the provisions of Article 3 without resort to trade restrictions, the Member shall make its full contribution, while appropriate action shall be taken by the other Members concerned, towards correcting the situation.

2. Action in accordance with this Article shall be taken with due regard to the desirability of employing methods which expand rather than contract international trade.

ARTICLE 5—EXCHANGE OF INFORMATION AND CONSULTATION

1. The Members and the Organization shall participate in arrangements made or sponsored by the Economic and Social Council of the United Nations, including arrangements with appropriate intergovernmental organizations:

(*a*) for the systematic collection, analysis and exchange of information on domestic employment problems, trends and policies, including as far as possible information relating to national income, demand and the balance of payments;

(*b*) for studies, relevant to the purpose and objectives set forth in Article 1, concerning international aspects of population and employment problems;

(*c*) for consultation with a view to concerted action on the part of governments and inter-governmental organizations in order to promote employment and economic activity.

2. The Organization shall, if it considers that the urgency of the situation so requires, initiate consultations among Members with a view to their taking appropriate measures against the international spread of a decline in employment, production or demand.

ARTICLE 6—SAFEGUARDS FOR MEMBERS SUBJECT TO EXTERNAL INFLATIONARY OR DEFLATIONARY PRESSURE

The Organization shall have regard, in the exercise of its functions under other Articles of this Charter, to the need of Members to take action within the provisions of this Charter to safeguard their economies against inflationary or deflationary pressure from abroad. In case of deflationary pressure special consideration shall be given to the consequences for any Member of a serious or abrupt decline in the effective demand of other countries.

ARTICLE 7—FAIR LABOUR STANDARDS

1. The Members recognize that measures relating to employment must take fully into account the rights of workers under inter-governmental declarations, conventions and agreements. They recognize that all countries have a common interest in the achievement and maintenance of fair labour standards related to productivity, and thus in the improvement of wages and working conditions as productivity may permit. The Members recognize that unfair labour conditions, particularly in production for export, create difficulties in international trade, and,

accordingly, each Member shall take whatever action may be appropriate and feasible to eliminate such conditions within its territory.

2. Members which are also members of the International Labour Organisation shall co-operate with that organization in giving effect to this undertaking.

3. In all matters relating to labour standards that may be referred to the Organization in accordance with the provisions of Articles 94 or 95, it shall consult and co-operate with the International Labour Organisation.

CHAPTER III—ECONOMIC DEVELOPMENT AND RECONSTRUCTION

ARTICLE 8—IMPORTANCE OF ECONOMIC DEVELOPMENT AND RECONSTRUCTION IN RELATION TO THE PURPOSE OF THIS CHARTER

The Members recognize that the productive use of the world's human and material resources is of concern to and will benefit all countries, and that the industrial and general economic development of all countries, particularly of those in which resources are as yet relatively undeveloped, as well as the reconstruction of those countries whose economies have been devastated by war, will improve opportunities for employment, enhance the productivity of labour, increase the demand for goods and services, contribute to economic balance, expand international trade and raise levels of real income.

ARTICLE 9—DEVELOPMENT OF DOMESTIC RESOURCES AND PRODUCTIVITY

Members shall within their respective territories take action designed progressively to develop, and where necessary to reconstruct, industrial and other economic resources and to raise standards of productivity through measures not inconsistent with the other provisions of this Charter.

ARTICLE 10—CO-OPERATION FOR ECONOMIC DEVELOPMENT AND RECONSTRUCTION

1. Members shall co-operate with one another, with the Economic and Social Council of the United Nations, with the Organization and with other appropriate inter-governmental organizations, in facilitating and promoting industrial and general economic development, as well as the reconstruction of those countries whose economies have been devastated by war.

2. With a view to facilitating and promoting industrial and general economic development and consequently higher standards of living, especially of those countries which are still relatively undeveloped, as well as the reconstruction of those countries whose economies have been devastated by war, and subject to any arrangements which may be entered into between the Organization and the Economic and Social Council of the United Nations and appropriate inter-governmental organizations the Organization shall, within its powers and resources at the request of any Member:

(*a*)

(i) study the Member's natural resources and potentialities for industrial and general economic development, and assist in the formulation of plans for such development;

(ii) furnish the Member with appropriate advice concerning its plans for economic development or reconstruction and the financing and carrying out of its programmes for economic development or reconstruction; or

(*b*) assist the Member to procure such advice or study.

These services shall be provided on terms to be agreed and in such collaboration with appropriate regional or other inter-governmental organizations as will use fully the competence of each of them. The Organization shall also, upon the same conditions, aid Members in procuring appropriate technical assistance.

3. With a view to facilitating and promoting industrial and general economic development, especially of those countries which are still relatively undeveloped, as well as the reconstruction of those countries whose economies have been devastated by war, the Organization shall co-operate with the Economic and Social Council of the United Nations and appropriate inter-governmental organizations on all phases, within their special competence, of such development and reconstruction, and, in particular, in respect of finance, equipment, technical assistance and managerial skills.

ARTICLE 11—MEANS OF PROMOTING ECONOMIC DEVELOPMENT AND RECONSTRUCTION

1. Progressive industrial and general economic development, as well as reconstruction, requires among other things adequate supplies of capital funds, materials, modern equipment and technology and technical and managerial skills. Accordingly, in order to stimulate and assist in the provision and exchange of these facilities:

(*a*) Members shall co-operate, in accordance with Article 10, in providing or arranging for the provision of such facilities within the limits of their power, and Members shall not impose unreasonable or unjustifiable impediments that would prevent other Members from obtaining on equitable terms any such facilities for their economic development or, in the case of Member countries whose economies have been devastated by war, for their reconstruction;

(*b*) no Member shall take unreasonable or unjustifiable action within its territory injurious to the rights or interests of nationals of other Members in the enterprise, skills, capital, arts or technology which they have supplied.

2. The Organization may, in such collaboration with other inter-governmental organizations as may be appropriate:

(*a*) make recommendations for and promote bilateral or multilateral agreements on measures designed:

(i) to assure just and equitable treatment for the enterprise, skills, capital, arts and technology brought from one Member country to another;

(ii) to avoid international double taxation in order to stimulate foreign private investments;

(iii) to enlarge to the greatest possible extent the benefits to Members from the fulfilment of the obligations under this Article;

(*b*) make recommendations and promote agreements designed to facilitate an equitable distribution of skills, arts, technology, materials and equipment, with due regard to the needs of all Members;

(*c*) formulate and promote the adoption of a general agreement or statement of principles regarding the conduct, practices and treatment of foreign investment.

ARTICLE 12—INTERNATIONAL INVESTMENT FOR ECONOMIC DEVELOPMENT AND RECONSTRUCTION

1. The Members recognize that:

(*a*) international investment, both public and private, can be of great value in promoting economic development and reconstruction, and consequent social progress;

(*b*) the international flow of capital will be stimulated to the extent that Members afford nationals of other countries opportunities for investment and security for existing and future investments;

(*c*) without prejudice to existing international agreements to which Members are parties, a Member has the right:

(i) to take any appropriate safeguards necessary to ensure that foreign investment is not used as a basis for interference in its internal affairs or national policies;

(ii) to determine whether and to what extent and upon what terms it will allow future foreign investment;

(iii) to prescribe and give effect on just terms to requirements as to the ownership of existing and future investments;

(iv) to prescribe and give effect to other reasonable requirements with respect to existing and future investments;

(*d*) the interests of Members whose nationals are in a position to provide capital for international investment and of Members who desire to obtain the use of such capital to promote their economic development or reconstruction may be promoted if such Members enter into bilateral or multilateral agreements relating to the opportunities and security for investment which the Members are prepared to offer and any limitations which they are prepared to accept of the rights referred to in subparagraph (*c*).

2. Members therefore undertake:

(*a*) subject to the provisions of paragraph 1 (*c*) and to any agreements entered into under paragraph 1 (*d*).

(i) to provide reasonable opportunities for investments acceptable to them and adequate security for existing and future investments, and

(ii) to give due regard to the desirability of avoiding discrimination as between foreign investments;

(*b*) upon the request of any Member and without prejudice to existing international agreements to which Members are parties, to enter into consultation or to participate in negotiations directed to the conclusion, if mutually acceptable, of an agreement of the kind referred to in paragraph 1 (*d*).

3. Members shall promote co-operation between national and foreign enterprises or investors for the purpose of fostering economic development or reconstruction in cases where such co-operation appears to the Members concerned to be appropriate.

ARTICLE 13—GOVERNMENTAL ASSISTANCE TO ECONOMIC DEVELOPMENT AND RECONSTRUCTION

1. The Members recognize that special governmental assistance may be required to promote the establishment, development or reconstruction of particular industries or 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. The Organization and the Members concerned shall preserve the utmost secrecy in respect of matters arising under this Article.

—A—

3. If a Member, in the interest of its economic development or reconstruction, or for the purpose of increasing a most-favoured-nation rate of duty in connection with the establishment of a new preferential agreement in accordance with the provisions of Article 15, considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with an obligation which the Member has assumed in respect of any product through negotiations with any other Member or Members pursuant to Chapter IV but which would not conflict with that Chapter, such Member

(*a*) shall enter into direct negotiations with all the other Members which have contractual rights. The Members shall be free to proceed in accordance with the terms of any agreement resulting from such negotiations, provided that the Organization is informed thereof; or

(*b*) shall initially or may, in the event of failure to reach agreement under sub-paragraph (*a*), apply to the Organization. The Organization shall determine, from among Members which have contractual rights, the Member or Members materially affected by the proposed measure and shall sponsor negotiations between such Member or Members and the applicant Member with a view to obtaining expeditious and substantial agreement. The Organization shall establish and communicate to the Members concerned a time schedule for such negotiations, following as far as practicable any time schedule which may have been proposed by the applicant Member. The Members shall commence and proceed continuously with such negotiations in accordance with the time schedule established by the Organization. At the request of a Member, the Organization may, where it concurs in principle with the proposed measure, assist in the negotiations. Upon substantial agreement being reached, the applicant Member may be released by the Organization from the obligation referred to in this paragraph, subject to such limitations as may have been agreed upon in the negotiations between the Members concerned.

4. (*a*) If as a result of action initiated under paragraph 3, there should be an increase in imports of any product concerned, including products which can be directly substituted therefor, which if continued would be so great as to jeopardize the establishment, development or reconstruction of the industry, or branch of agriculture concerned, and if no preventive measures consistent with the provisions of this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with, the Organization, adopt such other measures as the situation may require, provided that such measures do not restrict imports more than necessary to offset the increase in imports referred to in this sub-paragraph; except in unusual circumstances, such measures shall not reduce imports below the level obtaining in the most

recent representative period preceding the date on which the Member initiated action under paragraph 3.

(*b*) The Organization shall determine, as soon as practicable, whether any such measure should be continued, discontinued or modified. It shall in any case be terminated as soon as the Organization determines that the negotiations are completed or discontinued.

(*c*) It is recognized that the contractual relationships referred to in paragraph 3 involve reciprocal advantages, and therefore any Member which has a contractual right in respect of the product to which such action relates, and whose trade is materially affected by the action, may suspend the application to the trade of the applicant Member of substantially equivalent obligations or concessions under or pursuant to Chapter IV, provided that the Member concerned has consulted the Organization before taking such action and the Organization does not disapprove.

—B—

5. In the case of any non-discriminatory measure affecting imports which would conflict with Chapter IV and which would apply to any product in respect of which the Member has assumed an obligation through negotiations with any other Member or Members pursuant to Chapter IV, the provisions of sub-paragraph (*b*) of paragraph 3 shall apply; *Provided* that before granting a release the Organization shall afford adequate opportunity for all Members which it determines to be materially affected to express their views. The provisions of paragraph 4 shall also be applicable in this case.

—C—

6. If a Member in the interest of its economic development or reconstruction considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with Chapter IV, but which would not apply to any product in respect of which the Member has assumed an obligation through negotiations with any other Member or Members pursuant to Chapter IV, such Member shall notify the Organization and shall transmit to the Organization a written statement of the considerations in support of the adoption, for a specified period, of the proposed measure.

7. (*a*) On application by such Member the Organization shall concur in the proposed measure and grant the necessary release for a specified period if, having particular regard to the applicant Member's need for economic development or reconstruction, it is established that the measure

(i) is designed to protect a particular industry, established between January 1, 1939, and the date of this Charter, which was protected during that period of its development by abnormal conditions arising out of the war; or

(ii) is designed to promote the establishment or development of a particular industry for the processing of an indigenous primary commodity, when the external sales of such commodity have been materially reduced as a result of new or increased restrictions imposed abroad; or

(iii) is necessary, in view of the possibilities and resources of the applicant Member to promote the establishment or development of a particular industry for the processing of an indigenous primary commodity, or for the processing of a by-product of such industry, which would otherwise be wasted, in order to achieve a fuller and more economic use of the applicant Member's natural resources and manpower and, in the long run, to raise the standard of living within the territory of the applicant Member, and is unlikely to have a harmful effect, in the long run, on international trade; or

(iv) is unlikely to be more restrictive of international trade than any other practicable and reasonable measure permitted under this Charter, which could be imposed without undue difficulty, and is the one most suitable for the purpose having regard to the economics of the industry or branch of agriculture concerned and to the applicant Member's need for economic development or reconstruction.

The foregoing provisions of this sub-paragraph are subject to the following conditions:

(1) any proposal by the applicant Member to apply any such measure, with or without modification, after the end of the initial period, shall not be subject to the provisions of this paragraph; and

(2) the Organization shall not concur in any measure under the provisions of (i), (ii) or (iii) above which is likely to cause serious prejudice to exports

of a primary commodity on which the economy of another Member country is largely dependent.

(*b*) The applicant Member shall apply any measure permitted under sub-paragraph (*a*) in such a way as to avoid unnecessary damage to the commercial or economic interests of any other Member, including interests under the provisions of Articles 3 and 9.

8. If the proposed measure does not fall within the provisions of paragraph 7, the Member

(*a*) may enter into direct consultations with the Member or Members which, in its judgment, would be materially affected by the measure. At the same time, the Member shall inform the Organization of such consultations in order to afford it an opportunity to determine whether all materially affected Members are included within the consultations. Upon complete or substantial agreement being reached, the Member interested in taking the measure shall apply to the Organization. The Organization shall promptly examine the application to ascertain whether the interests of all the materially affected Members have been duly taken into account. If the Organization reaches this conclusion, with or without further consultations between the Members concerned, it shall release the applicant Member from its obligations under the relevant provision of Chapter IV, subject to such limitations as the Organization may impose; or

(*b*) may initially, or in the event of failure to reach complete or substantial agreement under sub-paragraph (*a*), apply to the Organization. The Organization shall promptly transmit the statement submitted under paragraph 6 to the Member or Members which are determined by the Organization to be materially affected by the proposed measure. Such Member or Members shall, within the time limits prescribed by the Organization, inform it whether, in the light of the anticipated effects of the proposed measure on the economy of such Member country or countries, there is any objection to the proposed measure. The Organization shall,

(i) if there is no objection to the proposed measure on the part of the affected Member or Members, immediately release the applicant Member from its obligations under the relevant provision of Chapter IV; or

(ii) if there is objection, promptly examine the proposed measure, having regard to the provisions of this Charter, to the considerations presented by the applicant Member and its need for economic development or reconstruction, to the views of the Member or Members determined to be materially affected, and to the effect which the proposed measure, with or without modification, is likely to have, immediately and in the long run, on international trade, and, in the long run, on the standard of living within the territory of the applicant Member. If, as a result of such examination, the Organization concurs in the proposed measure, with or without modification, it shall release the applicant Member from its obligations under the relevant provision of Chapter IV, subject to such limitations as it may impose.

9. If, in anticipation of the concurrence of the Organization in the adoption of a measure referred to in paragraph 6, there should be an increase or threatened increase in the imports of any product concerned, including products which can be directly substituted therefor, so substantial as to jeopardize the establishment, development or reconstruction of the industry or branch of agriculture concerned, and if no preventive measures consistent with this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with, the Organization, adopt such other measures as the situation may require, pending a decision by the Organization on the Member's application; *Provided* that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which notification was given under paragraph 6.

10. The Organization shall, at the earliest opportunity but ordinarily within fifteen days after receipt of an application under the provisions of paragraph 7 or sub-paragraphs (*a*) or (*b*) of paragraph 8, advise the applicant Member of the date by which it will be notified whether or not it is released from the relevant obligation. This shall be the earliest practicable date and not later than ninety days after receipt of such application; *Provided* that, if unforeseen difficulties arise before the date set, the period may be extended after consultation with the applicant Member. If the applicant Member is not so notified by the date set, it may, after informing the Organization, institute the proposed measure.

ARTICLE 14—TRANSITIONAL MEASURES

1. Any Member may maintain any non-discriminatory protective measure affecting imports which has been imposed for the establishment, development or reconstruction of a particular industry or branch of agriculture and which is not otherwise permitted by this Charter, provided that notification has been given of such measure and of each product to which it relates:

(*a*) in the case of a Member signatory to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, not later than October 10, 1947, in respect of measures in force on September 1, 1947, subject to decisions made under paragraph 6 of Article XVIII of the General Agreement on Tariffs and Trade; except that if in special circumstances the CONTRACTING PARTIES to that Agreement agree to dates other than those specified in this subparagraph, such other dates shall apply;

(*b*) in the case of any other Member, not later than the day on which it deposits its instrument of acceptance of this Charter, in respect of measures in force on that day or on the day of the entry into force of the Charter, whichever is the earlier;

and provided further that notification has been given under sub-paragraph (*a*) to the other signatories to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment and under sub-paragraph (*b*) to the Organization, or, if the Charter has not entered into force on the day of such notification, to the signatories to the Final Act of the United Nations Conference on Trade and Employment.

2. Any Member maintaining any such measure, other than a measure approved by the CONTRACTING PARTIES to the General Agreement under paragraph 6 of Article XVIII of that Agreement, shall, within one month of becoming a Member of the Organization, submit to it a statement of the considerations in support of the maintenance of the measure and the period for which it wishes to maintain it. The Organization shall, as soon as possible, but in any case within twelve months of such Member becoming a Member of the Organization, examine and give a decision concerning the measure as if it had been submitted to the Organization for its concurrence under Article 13.

3. Any measure, approved in accordance with the provisions of Article XVIII of the General Agreement, and which is in effect at the time this Charter enters into force, may remain in effect thereafter, subject to the conditions of any such approval and, if the Organization so decides, to review by the Organization.

4. This Article shall not apply to any measure relating to a product in respect of which the Member has assumed an obligation through negotiations pursuant to Chapter IV.

5. In cases where the Organization decides that a measure should be modified or withdrawn by a specified date, it shall have regard to the possible need of a Member for a period of time in which to make such modification or withdrawal.

ARTICLE 15—PREFERENTIAL AGREEMENTS FOR ECONOMIC DEVELOPMENT AND RECONSTRUCTION

1. The Members recognize that special circumstances, including the need for economic development or reconstruction, may justify new preferential agreements between two or more countries in the interest of the programmes of economic development or reconstruction of one or more of them.

2. Any Member contemplating the conclusion of such an agreement shall communicate its intention to the Organization and provide it with the relevant information to enable it to examine the proposed agreement. The Organization shall promptly communicate such information to all Members.

3. The Organization shall examine the proposal and, by a two-thirds majority of the Members present and voting, may grant, subject to such conditions as it may impose, an exception to the provisions of Article 16 to permit the proposed agreement to become effective.

4. Notwithstanding the provisions of paragraph 3, the Organization shall authorize, in accordance with the provisions of paragraphs 5 and 6, the necessary departure from the provisions of Article 16 in respect of a proposed agreement between Members for the establishment of tariff preferences which it determines to fulfil the following conditions and requirements:

(*a*) the territories of the parties to the agreement are contiguous one with another, or all parties belong to the same economic region;

(*b*) any preference provided for in the agreement is necessary to ensure a sound and adequate market for a particular industry or branch of agriculture which is being, or is to be, created or reconstructed or substantially developed or substantially modernized;

(*c*) the parties to the agreement undertake to grant free entry for the products of the industry or branch of agriculture referred to in sub-paragraph (*b*) or to apply customs duties to such products sufficiently low to ensure that the objectives set forth in that sub-paragraph will be achieved;

(*d*) any compensation granted to the other parties by the party receiving preferential treatment shall, if it is a preferential concession, conform with the provisions of this paragraph;

(*e*) the agreement contains provisions permitting, on terms and conditions to be determined by negotiation with the parties to the agreement, the adherence of other Members, which are able to qualify as parties to the agreement under the provisions of this paragraph, in the interest of their programmes of economic development or reconstruction. The provisions of Chapter VIII may be invoked by such a Member in this respect only on the ground that it has been unjustifiably excluded from participation in such an agreement;

(*f*) the agreement contains provisions for its termination within a period necessary for the fulfilment of its purposes but, in any case, not later than at the end of ten years; any renewal shall be subject to the approval of the Organization and no renewal shall be for a longer period than five years.

5. When the Organization, upon the application of a Member and in accordance with the provisions of paragraph 6, approves a margin of preference as an exception to Article 16 in respect of the products covered by the proposed agreement, it may, as a condition of its approval, require a reduction in an unbound most-favoured-nation rate of duty proposed by the Member in respect of any product so covered, if in the light of the representations of any affected Member it considers that rate excessive.

6. (*a*) If the Organization finds that the proposed agreement fulfils the conditions and requirements set forth in paragraph 4 and that the conclusion of the agreement is not likely to cause substantial injury to the external trade of a Member country not party to the agreement, it shall within two months authorize the parties to the agreement to depart from the provisions of Article 16, as regards the products covered by the agreement. If the Organization does not give a ruling within the specified period, its authorization shall be regarded as having been automatically granted.

(*b*) If the Organization finds that the proposed agreement, while fulfilling the conditions and requirements set forth in paragraph 4, is likely to cause substantial injury to the external trade of a Member country not party to the agreement, it shall inform interested Members of its findings and shall require the Members contemplating the conclusion of the agreement to enter into negotiations with that Member. When agreement is reached in the negotiations, the Organization shall authorize the Members contemplating the conclusion of the preferential agreement to depart from the provisions of Article 16 as regards the products covered by the preferential agreement. If, at the end of two months from the date on which the Organization suggested such negotiations, the negotiations have not been completed and the Organization considers that the injured Member is unreasonably preventing the conclusion of the negotiations, it shall authorize the necessary departure from the provisions of Article 16 and at the same time shall fix a fair compensation to be granted by the parties to the agreement to the injured Member or, if this is not possible or reasonable, prescribe such modification of the agreement as will give such Member fair treatment. The provisions of Chapter VIII may be invoked by such Member only if it does not accept the decision of the Organization regarding such compensation.

(*c*) If the Organization finds that the proposed agreement, while fulfilling the conditions and requirements set forth in paragraph 4, is likely to jeopardize the economic position of a Member in world trade, it shall not authorize any departure from the provisions of Article 16 unless the parties to the agreement have reached a mutually satisfactory understanding with that Member.

(*d*) If the Organization finds that the prospective parties to a regional preferential agreement have, prior to November 21, 1947, obtained from countries representing at least two-thirds of their import trade the right to depart from most-favoured-nation treatment in the cases envisaged in the agreement, the Organization shall, without prejudice to the conditions governing the recognition of such right, grant the authorization provided for in paragraph 5 and in sub-paragraph (*a*) of this paragraph, provided that the conditions and requirements

set out in sub-paragraphs (*a*), (*e*) and (*f*) of paragraph 4 are fulfilled. Nevertheless, if the Organization finds that the external trade of one or more Member countries, which have not recognized this right to depart from most-favored-nation treatment, is threatened with substantial injury, it shall invite the parties to the agreements to enter into negotiations with the injured Member, and the provisions of sub-paragraph (*b*) of this paragraph shall apply.

CHAPTER IV—COMMERCIAL POLICY

SECTION A—TARIFFS, PREFERENCES, AND INTERNAL TAXATION AND REGULATION

ARTICLE 16—GENERAL MOST-FAVORED-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 within the scope of paragraphs 2 and 4 of Article 18, any advantage, favour, privilege or immunity granted by any Member 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 all other Member countries.

2. The provisions of paragraph 1 shall not require the elimination, except as provided in Article 17, of any preferences in respect of import duties or charges which do not exceed the margins provided for in paragraph 4 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 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, D and E;

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

(*d*) preferences in force exclusively between the Republic of the Philippines and the United States of America, including the dependent territories of the latter;

(*e*) preferences in force exclusively between neighbouring countries listed in Annexes F, G, H, I and J.

3. The provisions of paragraph 1 shall not apply to preferences between the countries formerly a part of the Ottoman Empire and detached from it on July 24, 1923, provided such preferences fulfil the applicable requirements of Article 15.

4. The margin of preference on any product in respect of which a preference is permitted under paragraph 2 shall not exceed (*a*) the maximum margin provided for under the General Agreement on Tariffs and Trade or any subsequent operative agreement resulting from negotiations under Article 17, or (*b*) if not provided for under such agreements, the margin existing either on April 10, 1947, or on any earlier date established for a Member as a basis for negotiating the General Agreement on Tariffs and Trade, at the option of such Member.

5. The imposition of a margin of tariff preference not in excess of the amount necessary to compensate for the elimination of a margin of preference in an internal tax existing on April 10, 1947, exclusively between two or more of the territories in respect of which preferential import duties or charges are permitted under paragraph 2, shall not be deemed to be contrary to the provisions of this Article, it being understood that any such margin of tariff preference shall be subject to the provisions of Article 17.

ARTICLE 17—REDUCTION OF TARIFFS AND ELIMINATION OF PREFERENCES

1. Each Member shall, upon the request of any other Member or Members, and subject to procedural arrangements established by the Organization, enter into and carry out with such other Member or Members negotiations directed to the substantial reduction of the general levels of tariffs and other charges on imports and exports, and to the elimination of the preferences referred to in paragraph 2 of Article 16, on a reciprocal and mutually advantageous basis.

2. The negotiations provided for in paragraph 1 shall proceed in accordance with the following rules:

(*a*) Such negotiations shall be conducted on a selective product-by-product basis which will afford adequate opportunity to take into account

the needs of individual countries and individual industries. Members shall be free not to grant concessions on particular products and, in the granting of a concession, they may reduce the duty, bind it at its then existing level, or undertake not to raise it above a specified higher level.

(*b*) No Member shall be required to grant unilateral concessions, or to grant concessions to other Members without receiving adequate concessions in return. Account shall be taken of the value to any Member of obtaining in its own right and by direct obligation the indirect concessions which it would otherwise enjoy only by virtue of Article 16.

(*c*) In negotiations relating to any specific product with respect to which a preference applies,

(i) when a reduction is negotiated only in the most-favoured-nation rate, such reduction shall operate automatically to reduce or eliminate the margin of preference applicable to that product;

(ii) when a reduction is negotiated only in the preferential rate, the most-favoured-nation rate shall automatically be reduced to the extent of such reduction;

(iii) when it is agreed that reductions will be negotiated in both the most-favoured-nation rate and the preferential rate, the reduction in each shall be that agreed by the parties to the negotiations;

(iv) no margin of preference shall be increased.

(*d*) The binding against increase of low duties or of duty-free treatment shall in principle be recognized as a concession equivalent in value to the substantial reduction of high duties or the elimination of tariff preferences.

(*e*) Prior international obligations shall not be invoked to frustrate the requirement under paragraph 1 to negotiate with respect to preferences, it being understood that agreements which result from such negotiations and which conflict with such obligations shall not require the modification or termination of such obligations except (i) with the consent of the parties to such obligations, or, in the absence of such consent, (ii) by modification or termination of such obligations in accordance with their terms.

3. The negotiations leading to the General Agreement on Tariffs and Trade, concluded at Geneva on October 30, 1947, shall be deemed to be negotiations pursuant to this Article. The concessions agreed upon as a result of all other negotiations completed by a Member pursuant to this Article shall be incorporated in the General Agreement on terms to be agreed with the parties thereto. If any Member enters into any agreement relating to tariffs or preferences which is not concluded pursuant to this Article, the negotiations leading to such agreement shall nevertheless conform to the requirements of paragraph 2 (*c*).

4. (*a*) The provisions of Article 16 shall not prevent the operation of paragraph 5 (*b*) of Article XXV of the General Agreement on Tariffs and Trade, as amended at the First Session of the CONTRACTING PARTIES.

(*b*) If a Member has failed to become a contracting party to the General Agreement within two years from the entry into force of this Charter with respect to such Member, the provisions of Article 16 shall cease to require, at the end of that period, the application to the trade of such Member country of the concessions granted, in the appropriate Schedule annexed to the General Agreement, by another Member which has requested the first Member to negotiate with a view to becoming a contracting party to the General Agreement but has not successfully concluded negotiations; *Provided* that the Organization may, by a majority of the votes cast, require the continued application of such concessions to the trade of any Member country which has been unreasonably prevented from becoming a contracting party to the General Agreement pursuant to negotiations in accordance with the provisions of this Article.

(*c*) If a Member which is a contracting party to the General Agreement proposes to withhold tariff concessions from the trade of a Member country which is not a contracting party, it shall give notice in writing to the Organization and to the affected Member. The latter Member may request the Organization to require the continuance of such concessions, and if such a request has been made the tariff concessions shall not be withheld pending a decision by the Organization under the provisions of sub-paragraph (*b*) of this paragraph.

(*d*) In any determination whether a Member has been unreasonably prevented from becoming a contracting party to the General Agreement, and in any determination under the provisions of Chapter VIII whether a Member has failed without sufficient justification to fulfil its obligations under paragraph 1 of this Article, the Organization shall have regard to all relevant circumstances, including the developmental, reconstruction and other needs, and the general fiscal struc-

tures, of the Member countries concerned and to the provisions of the Charter as a whole.

(*e*) If such concessions are in fact withheld, so as to result in the application to the trade of a Member country of duties higher than would otherwise have been applicable, such Member shall then be free, within sixty days after such action becomes effective, to give written notice of withdrawal from the Organization. The withdrawal shall become effective upon the expiration of sixty days from the day on which such notice is received by the Director-General.

ARTICLE 18—NATIONAL TREATMENT ON INTERNAL TAXATION AND REGULATION

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

2. The products of any Member country imported into any other Member country shall not be subject, directly, or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products. Moreover, no Member shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.

3. With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2 but which is specifically authorized under a trade agreement, in force on April 10, 1947, in which the import duty on the taxed product is bound against increase, the Member imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as it can obtain release from the obligations of such trade agreement in order to permit the increase of such duty to the extent necessary to compensate for the elimination of the protective element of the tax.

4. The products of any Member country imported into any other Member country 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 internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

5. No Member shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no Member shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.

6. The provisions of paragraph 5 shall not apply to any internal quantitative regulation in force in any Member country on July 1, 1939, April 10, 1947 or on the date of this Charter, at the option of that Member; *Provided* that any such regulation which is contrary to the provisions of paragraph 5 shall not be modified to the detriment of imports and shall be subject to negotiation and shall accordingly be treated as a customs duty for the purposes of Article 17.

7. No internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions shall be applied in such a manner as to allocate any such amount or proportion among external sources of supply.

8. (*a*) The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial sale.

(*b*) The provisions of this Article shall not prevent the payment of subsidies exclusively to domestic producers, including payments to domestic producers derived from the proceeds of internal taxes or charges applied consistently with the provisions of this Article and subsidies effected through governmental purchases of domestic products.

9. The Members recognize that internal maximum price control measures, even though conforming to the other provisions of this Atricle, can have effects preju-

dicial to the interests of Member countries supplying imported products. Accordingly, Members applying such measures shall take account of the interests of exporting Member countries with a view to avoiding to the fullest practicable extent such prejudicial effects.

ARTICLE 19—SPECIAL PROVISIONS RELATING TO CINEMATOGRAPH FILMS

The provisions of Article 18 shall not prevent any Member from establishing or maintaining internal quantitative regulations relating to exposed cinematograph films. Any such regulations shall take the form of screen quotas which shall conform to the following conditions and requirements:

(*a*) Screen quotas may required 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 films 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 screen time released by administrative action from time reserved for films of national origin, shall not be allocated formally or in effect among sources of supply.

(*c*) Notwithstanding the provisions of subparagraph (*b*) any Member may maintain screen quotas conforming to the requirements of sub-paragraph (*a*) which reserve a minimum proportion of screen time for films of a specified origin other than that of the Member imposing such screen quotas; *Provided* that such minimum proportion of screen time shall not be increased above the level in effect on April 10, 1947.

(*d*) Screen quotas shall be subject to negotiation and shall accordingly be treated as customs duties for the purposes of Article 17.

SECTION B—QUANTITATIVE RESTRICTIONS AND RELATED EXCHANGE MATTERS

ARTICLE 20—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 Member on the importation of any product of any other Member country or on the exportation or sale for export of any product destined for any other Member country.

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

(*a*) export prohibitions or restrictions applied for the period necessary to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting Member country;

(*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; if, in the opinion of the Organization, the standards or regulations adopted by a Member under this sub-paragraph have an unduly restrictive effect on trade, the Organization may request the Member to revise the standards or regulations; *Provided* that it shall not request the revision of standards internationally agreed pursuant to recommendations made under paragraph 7 of Article 39;

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

(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 agricultural or fisheries product for which the imported product can be directly substituted; or

(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 agricultural or fisheries 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.

3. With regard to import restrictions applied under the provisions of paragraph 2 (*c*):

(*a*) such restrictions shall be applied only so long as the governmental measures referred to in paragraph 2 (*c*) are in force, and, when applied to the import of products of which domestic supplies are available during only a part of the year, shall not be applied in such a way as to prevent their import in quantities sufficient to satisfy demand for current consumption purposes during those periods of the year when like domestic products, or domestic products for which the imported product can be directly substituted, are not available;

(*b*) any Member intending to introduce restrictions on the importation of any product shall, in order to avoid unnecessary damage to the interests of exporting countries, give notice in writing as far in advance as practicable to the Organization and to Members having a substantial interest in supplying that product, in order to afford such Members adequate opportunity for consultation in accordance with the provisions of paragraphs 2 (*d*) and 4 of Article 22, before the restrictions enter into force. At the request of the importing Member concerned, the notification and any information disclosed during the consultations shall be kept strictly confidential;

(*c*) any Member applying such restrictions 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;

(*d*) any restrictions applied under paragraph 2 (*c*) (i) 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 Member applying the restrictions 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.

4. Throughout this Section the terms "import restrictions" and "export restrictions" include restrictions made effective through state-trading operations.

ARTICLE 21—RESTRICTIONS TO SAFEGUARD THE BALANCE OF PAYMENTS

1. The Members recognize that:

(*a*) it is primarily the responsibility of each Member to safeguard its external financial position and to achieve and maintain stable equilibrium in its balance of payments;

(*b*) an adverse balance of payments of one Member country may have important effects on the trade and balance of payments of other Member countries, if it results in, or may lead to, the imposition by the Member of restrictions affecting international trade;

(*c*) the balance of payments of each Member country is of concern to other Members, and therefore it is desirable that the Organization should promote consultations among Members and, where possible, agreed action consistent with this Charter for the purpose of correcting a maladjustment in the balance of payments; and

(*d*) action taken to restore stable equilibrium in the balance of payments should, so far as the Member or Members concerned find possible, employ methods which expand rather than contract international trade.

2. Notwithstanding the provisions of paragraph 1 of Article 20, any Member, 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.

3. (*a*) No Member 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 Member 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 Member'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*) A Member applying restrictions under sub-paragraph (*a*) shall progressively relax and ultimately eliminate them, in accordance with the provisions of that sub-paragraph, as its external financial position improves. This provision shall not be interpreted to mean that a Member is required to relax or remove such

restrictions if that relaxation or removal would thereupon produce conditions justifying the intensification or institution, respectively, of restrictions under sub-paragraph (*a*).

(*c*) Members undertake:

(i) not to apply restrictions so as to prevent unreasonably the importation of any description of merchandise 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 the importation of such minimum quantities of a product as may be necessary to obtain and maintain patent, trade mark, copyright or similar rights under industrial or intellectual property laws;

(ii) to apply restrictions under this Article in such a way as to avoid unnecessary damage to the commercial or economic interests of any other Member, including interests under Articles 3 and 9.

4. (*a*) The Members recognize that in the early years of the Organization all of them will be confronted in varying degrees with problems of economic adjustment resulting from the war. During this period the Organization shall, when required to take decisions under this Article or under Article 23, take full account of the difficulties of post-war adjustment and of the need which a Member 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 Members recognize that, as a result of domestic policies directed toward the fulfilment of a Member's obligations under Article 3 relating to the achievement and maintenance of full and productive employment and large and steadily growing demand, or its obligations under Article 9 relating to the reconstruction or development of industrial and other economic resources and to the raising of standards of productivity, such a Member may find that demands for foreign exchange on account of imports and other current payments are absorbing the foreign exchange resources currently available to it in such a manner as to exercise pressure on its monetary reserves which would justify the institution or maintenance of restrictions under paragraph 3 of this Article. Accordingly,

(i) no Member shall be required to withdraw or modify restrictions which it is applying under this Article on the ground that a change in such policies would render these restrictions unnecessary;

(ii) any Member 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*) Members undertake, in carrying out their domestic policies, 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.

5. (*a*) Any Member 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 Organization 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 Members. No Member shall be required in the course of consultations under this sub-paragraph to indicate in advance the choice or timing of any particular measure which it may ultimately determine to adopt.

(*b*) The Organization may at any time invite any Member which is applying import restrictions under this Article to enter into such consultations with it and shall invite any Member substantially intensifying such restrictions to consult within thirty days. A Member thus invited shall participate in the consultations. The Organization may invite any other Member to take part in the consultations. Not later than two years from the day on which this Charter enters into force, the Organization shall review all restrictions existing on that day and still applied under this Article at the time of the review.

(*c*) Any Member may consult with the Organization with a view to obtaining the prior approval of the Organization for restrictions which the Member proposes, under this Article, to maintain, intensify or institute, or for the maintenance, intensification of institution of restrictions under specified future conditions. As a result of such consultations, the Organization may approve in advance the maintenance, intensification of institution of restrictions by the Member in question in so far 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 Member applying the restriction 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 sub-paragraphs (*a*) and (*b*) of paragraph 3.

(*d*) Any Member which considers that another Member is applying restrictions under this Article inconsistently with the provisions of paragraphs 3 or 4 of this Article or with those of Article 22 (subject to the provisions of Article 23) may bring the matter to the Organization for discussion; and the Member applying the restrictions shall participate in the discussion. If, on the basis of the case presented by the Member initiating the procedure, it appears to the Organization that the trade of that Member is adversely affected, the Organization shall submit its 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 Organization. If no such settlement is reached and if the Organization determines that the restrictions are being applied inconsistently with the provisions of paragraphs 3 or 4 of this Article or with those of Article 22 (subject to the provisions of Article 23), the Organization shall recommend the withdrawal or modification of the restrictions. If the restrictions are not withdrawn or modified in accordance with the recommendation of the Organization within sixty days, the Organization may release any Member from specified obligations or concessions under or pursuant to this Charter towards the Member applying the restrictions.

(*e*) In consultations between a Member and the Organization under this paragraph there shall be full and free discussion as to the various causes and the nature of the Member's balance-of-payments difficulties. It is recognized that premature disclosure of the prospective application, withdrawal or modification of any restrictions under this Article might stimulate speculative trade and financial movements which would tend to defeat the purposes of this Article. Accordingly, the Organization shall make provision for the observance of the utmost secrecy in the conduct of any consultation.

6. 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 Organization shall initiate discussions to consider whether other measures might be taken, either by those Members whose balances of payments are under pressure or by those Members 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 Organization, Members shall participate in such discussions.

ARTICLE 22—NON-DISCRIMINATORY ADMINISTRATION OF QUANTITATIVE RESTRICTIONS

1. No prohibition or restriction shall be applied by any Member on the importation of any product of any other Member country or on the exportation of any product destined for any other Member country, 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, Members shall aim at a distribution of trade in such product approaching as closely as possible to the shares which the various Member countries 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*);

(*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*) Members 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 Member applying the restrictions may seek agreement with respect to the allocation of shares in the quota with all other Members having a substantial interest in supplying the product concerned. In cases in which this method is not reasonably practicable, the Member concerned shall allot to Member countries having a substantial interest in supplying the product shares of the total quantity or value of imports of the product based upon the proportions supplied by such Member countries during a previous representative

period, 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 Member country 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 the case of import restrictions involving the granting of import licences, the Member applying the restrictions shall provide, upon the request of any Member 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 Member 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 enroute 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 Member 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 Member applying the restrictions shall promptly inform all other Members 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.

(*d*) If the Organization finds, upon the request of a Member, that the interests of that Member would be seriously prejudiced by giving, in regard to certain products, the public notice required under sub-paragraphs (*b*) and (*c*) of this paragraph, by reason of the fact that a large part of its imports of such products is supplied by non-Member countries, the Organization shall release the Member from compliance with the obligations in question to the extent and for such time as it finds necessary to prevent such prejudice. Any request made by a Member pursuant to this sub-paragraph shall be acted upon promptly by the Organization.

4. With regard to restrictions applied in accordance with the provisions of paragraph 2 (*d*) of this Article or under the provisions of paragraph 2 (*c*) of Article 20, 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 Member applying the restrictions; *Provided*, that such Member shall, upon the request of any other Member having a substantial interest in supplying that product, or upon the request of the Organization, consult promptly with the other Member or the Organization regarding the need for an adjustment of the proportion determined or of the base period selected, or for the re-appraisal of the special factors involved, or for the elimination of conditions, formalities or any other provisions established unilaterally with regard 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 Member and, in so far as applicable, the principles of this Article shall also extend to export restrictions.

ARTICLE 23—EXCEPTIONS TO THE RULE OF NON-DISCRIMINATION

1. (*a*) The Members recognize that the aftermath of the war has brought difficult problems of economic adjustment which do not permit the immediate full achievement of non-discriminatory administration of quantitative restrictions and therefore require the exceptional transitional period arrangements set forth in this paragraph.

(*b*) A Member which applies restrictions under Article 21 may, in the use of such restrictions, deviate from the provisions of Article 22 in a manner having equivalent effect to restrictions on payments and transfers for current international transactions which that Member may at that time apply under Article XIV of the Articles of Agreement of the International Monetary Fund, or under

an analogous provision of a special exchange agreement entered into pursuant to paragraph 6 of Article 24.

(*c*) A Member which is applying restrictions under Article 21 and which on March 1, 1948 was applying import restrictions to safeguard its balance of payments in a manner which deviated from the rules of non-discrimination set forth in Article 22 may, to the extent that such deviation would not have been authorized on that date by subparagraph (*b*), continue so to deviate, and may adapt such deviation to changing circumstances.

(*d*) Any Member which before July 1, 1948 signed the Protocol of Provisional Application agreed upon at Geneva on October 30, 1947, and which by such signature has provisionally accepted the principles of paragraph 1 of Article 23 of the Draft Charter submitted to the United Nations Conference on Trade and Employment by the Preparatory Committee, may elect, by written notice to the Interim Commission of the International Trade Organization or to the Organization before January 1, 1949, to be governed by the provisions of Annex K of this Charter, which embodies such principles, in lieu of the provisions of sub-paragraphs (*b*) and (*c*) of this paragraph. The provisions of sub-paragraphs (*b*) and (*c*) shall not be applicable to Members which have so elected to be governed by the provisions of Annex K; and conversely, the provisions of Annex K shall not be applicable to Members which have not so elected.

(*e*) The policies applied in the use of import restrictions under sub-paragraphs (*b*) and (*c*) or under Annex K in the post-war transitional period shall be designed to promote the maximum development of multilateral trade possible during that period and to expedite the attainment of a balance-of-payments position which will no longer require resort to the provisions of Article 21 or to transitional exchange arrangements.

(*f*) A Member may deviate from the provisions of Article 22, pursuant to sub-paragraphs (*b*) or (*c*) of this paragraph or pursuant to Annex K, only so long as it is availing itself of the post-war transitional period arrangements under Article XIV of the Articles of Agreement of the International Monetary Fund, or of an analagous provision of a special exchange agreement entered into under paragraph 6 of Article 24.

(*g*) Not later than March 1, 1950 (three years after the date on which the International Monetary Fund began operations) and in each year thereafter, the Organization shall report on any action still being taken by Members under sub-paragraphs (*b*) and (*c*) of this paragraph or under Annex K. In March 1952, and in each year thereafter, any Member still entitled to take action under the provisions of sub-paragraph (*c*) or of Annex K shall consult the Organization as to any deviations from Article 22 still in force pursuant to such provisions and as to its continued resort to such provisions. After March 1, 1952, any action under Annex K going beyond the maintenance in force of deviations on which such consultation has taken place and which the Organization has not found unjustifiable, or their adaptation to changing circumstances, shall be subject to any limitations of a general character which the Organization may prescribe in the light of the Member's circumstances.

(*h*) The Organization may, if it deems such action necessary in exceptional circumstances, make representations to any Member entitled to take action under the provisions of sub-paragraph (*c*) that conditions are favourable for the termination of any particular deviation from the provisions of Article 22, or for the general abandonment of deviations, under the provisions of that sub-paragraph. After March 1, 1952, the Organization may make such representations, in exceptional circumstances, to any Member entitled to take action under Annex K. The Member shall be given a suitable time to reply to such representations. If the Organization finds that the Member persists in unjustifiable deviation from the provisions of Article 22, the Member shall, within sixty days, limit or terminate such deviations as the Organization may specify.

2. Whether or not its transitional period arrangements have terminated pursuant to paragraph 1 (*f*), a Member which is applying import restrictions under Article 21 may, with the consent of the Organization, temporarily deviate from the provisions of Article 22 in respect of a small part of its external trade where the benefits to the Member or Members concerned substantially outweigh any injury which may result to the trade of other Members.

3. The provisions of Article 22 shall not preclude restrictions in accordance with the provisions of Article 21 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 22, or

(*b*) assist, in the period until December 31, 1951, by measures not involving substantial departure from the provisions of Article 22, another country whose economy has been disrupted by war.

4. A Member applying import restrictions under Article 21 shall not be precluded by this Section from applying measures to direct its exports in such a manner as to increase its earnings of currencies which it can use without deviation from the provisions of Article 22.

5. A Member shall not be precluded by this Section from applying quantitative restrictions

(*a*) having 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*) under the preferential arrangements provided for in Annex A of this Charter, pending the outcome of the negotiations referred to therein.

ARTICLE 24—RELATIONSHIP WITH THE INTERNATIONAL MONETARY FUND AND EXCHANGE ARRANGEMENTS

1. The Organization shall seek co-operation with the International Monetary Fund to the end that the Organization 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 Organization.

2. In all cases in which the Organization is called upon to consider or deal with problems concerning monetary reserves, balance of payments or foreign exchange arrangements, the Organization shall consult fully with the Fund. In such consultation, the Organization shall accept all findings of statistical and other facts presented by the Fund relating to foreign exchange, monetary reserves and balance of payments, and shall accept the determination of the Fund whether action by a Member with respect to exchange matters is in accordance with the Articles of Agreement of the International Monetary Fund, or with the terms of a special exchange agreement entered into between that Member and the Organization pursuant to paragraph 6 of this Article. When the Organization is examining a situation in the light of the relevant considerations under all the pertinent provisions of Article 21 for the purpose of reaching its final decision in cases involving the criteria set forth in paragraph 3 (*a*) of that Article, it shall accept the determination of the Fund as to what constitutes a serious decline in the Member's monetary reserves, a very low level of its monetary reserves or a reasonable rate of increase in its monetary reserves, and as to the financial aspects of other matters covered in consultation in such cases.

3. The Organization shall seek agreement with the Fund regarding procedures for consultation under paragraph 2 of this Article. Any such agreement, other than informal arrangements of a temporary or administrative character, shall be subject to confirmation by the Conference.

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

5. If the Organization considers, at any time, that exchange restrictions on payments and transfers in connection with imports are being applied by a Member in a manner inconsistent with the provisions of this Section with respect to quantitative restrictions, it shall report thereon to the Fund.

6. (*a*) Any Member of the Organization which is not a member of the Fund shall, within a time to be determined by the Organization after consultation with the Fund, become a member of the Fund or, failing that, enter into a special exchange agreement with the Organization. A Member of the Organization which ceases to be a member of the Fund shall forthwith enter into a special exchange agreement with the Organization. Any special exchange agreement entered into by a Member under this sub-paragraph shall thereupon become part of its obligations under this Charter.

(*b*) Any such agreement shall provide to the satisfaction of the Organization that the objectives of this Charter will not be frustrated as a result of action with respect to exchange matters by the Member in question.

(*c*) Any such agreement shall not impose obligations on the Member with respect to exchange matters generally more restrictive than those imposed by the Articles of Agreement of the International Monetary Fund on members of the Fund.

(*d*) No Member shall be required to enter into any such agreement so long as it uses solely the currency of another Member and so long as neither the Member

nor the country whose currency is being used maintains exchange restrictions. Nevertheless, if the Organization at any time considers that the absence of a special exchange agreement may be permitting action which tends to frustrate the purposes of any of the provisions of this Charter, it may require the Member to enter into a special exchange agreement in accordance with the provisions of this paragraph. A Member of the Organization which is not a member of the Fund and which has not entered into a special exchange agreement may be required at any time to consult with the Organization on any exchange problem.

7. A Member which is not a member of the Fund, whether or not it has entered into a special exchange agreement, 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 Organization may require in order to carry out its functions under this Charter.

8. Nothing in this Section shall preclude:

(*a*) the use by a Member of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund or with that Member's special exchange agreement with the Organization, or

(*b*) the use by a Member of restrictions or controls on imports or exports, the sole effect of which, in addition to the effects permitted under Articles 20, 21, 22 and 23, is to make effective such exchange controls or exchange restrictions,

Section C—Subsidies

ARTICLE 25—SUBSIDIES IN GENERAL

If any Member grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to maintain or increase exports of any product from, or to reduce, or prevent an increase in, imports of any product into its territory, the Member shall notify the Organization 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 a Member considers that serious prejudice to its interests is caused or threatened by any such subsidization, the Member granting the subsidy shall, upon request, discuss with the other Member or Members concerned, or with the Organization, the possibility of limiting the subsidization.

ARTICLE 26—ADDITIONAL PROVISIONS ON EXPORT SUBSIDIES

1. No Member shall grant, directly or indirectly, any subsidy on the export of any product, or establish or maintain any other system, which subsidy or system results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, due allowance being made for differences in the conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

2. The exemption of exported products from duties or taxes imposed in respect of like products when consumed domestically, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be in conflict with the provisions of paragraph 1. The use of the proceeds of such duties or taxes to make payments to domestic producers in general of those products shall be considered as a case under Article 25.

3. Members shall give effect to the provisions of paragraph 1 at the earliest practicable date but not later than two years from the day on which this Charter enters into force. If any Member considers itself unable to do so in respect of any particular product or products, it shall, at least three months before the expiration of such period, give notice in writing to the Organization, requesting a specific extension of the period. Such notice shall be accompanied by a full analysis of the system in question and the circumstances justifying it. The Organization shall then determine whether the extension requested should be made and, if so, on what terms.

4. Notwithstanding the provisions of paragraph 1, any Member may subsidize the exports of any product to the extent and for such time as may be necessary to offset a subsidy granted by a non-Member affecting the Member's exports of the product. However, the Member shall, upon the request of the Organization or of any other Member which considers that its interests are seriously prejudiced

by such action, consult with the Organization or with that Member, as appropriate, with a view to reaching a satisfactory adjustment of the matter.

ARTICLE 27—SPECIAL TREATMENT OF PRIMARY COMMODITIES

1. 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 commodity for export at a price lower than the comparable price charged for the like commodity to buyers in the domestic market, shall be considered not to involve a subsidy on export within the meaning of paragraph 1 of Article 26, if the Organization determines that

(*a*) the system has also resulted, or is so designed as to result, in the sale of the commodity for export at a price higher than the comparable price charged for the like commodity to buyers in the domestic market; and

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

2. Any Member granting a subsidy in respect of a primary commodity shall co-operate at all times in efforts to negotiate agreements, under the procedures set forth in Chapter VI, with regard to that commodity.

3. In any case involving a primary commodity, if a Member considers that its interests would be seriously prejudiced by compliance with the provisions of Article 26, or if a Member considers that its interests are seriously prejudiced by the granting of any form of subsidy, the procedures set forth in Chapter VI may be followed. The Member which considers that its interests are thus seriously prejudiced shall, however, be exempt provisionally from the requirements of paragraphs 1 and 3 of Article 26 in respect of that commodity, but shall be subject to the provisions of Article 28.

4. No member shall grant a new subsidy or increase an existing subsidy affecting the export of a primary commodity, during a commodity conference called for the purpose of negotiating an intergovernmental control agreement for the commodity concerned unless the Organization concurs, in which case such new or additional subsidy shall be subject to the provisions of Article 28.

5. If the measures provided for in Chapter VI have not succeeded, or do not promise to succeed, within a reasonable period of time, or if the conclusion of a commodity agreement is not an appropriate solution, any Member which considers that its interests are seriously prejudiced shall not be subject to the requirements of paragraphs 1 and 3 of Article 26 in respect of that commodity, but shall be subject to the provisions of Article 28.

ARTICLE 28—UNDERTAKING REGARDING STIMULATION OF EXPORTS OF PRIMARY COMMODITIES

1. Any Member granting any form of subsidy, which operates directly or indirectly to maintain or increase the export of any primary commodity from its territory, shall not apply the subsidy in such a way as to have the effect of maintaining or acquiring for that Member more than an equitable share of world trade in that commodity.

2. As required under the provisions of Article 25, the Member granting such subsidy shall promptly notify the Organization of the extent and nature of the subsidization, of the estimated effect of the subsidization on the quantity of the affected commodity exported from its territory, and of the circumstances making the subsidization necessary. The Member shall promptly consult with any other Member which considers that serious prejudice to its interests is caused or threatened by the subsidization.

3. If, within a reasonable period of time, no agreement is reached in such consultation, the Organization shall determine what constitutes an equitable share of world trade in the commodity concerned and the Member granting the subsidy shall conform to this determination.

4. In making the determination referred to in paragraph 3, the Organization shall take into account any factors which may have affected or may be affecting world trade in the commodity concerned, and shall have particular regard to:

(*a*) the Member country's share of world trade in the commodity during a previous representative period;

(*b*) whether the Member country's share of world trade in the commodity is so small that the effect of the subsidy on such trade is likely to be of minor significance;

(*c*) the degree of importance of the external trade in the commodity to the economy of the Member country granting, and to the economies of the Member countries materially affected by, the subsidy;

(*d*) the existence of price stabilization systems conforming to the provisions of paragraph 1 of Article 27;

(*e*) the desirability of facilitating the gradual expansion of production for export in those areas able to satisfy world market requirements of the commodity concerned in the most effective and economic manner, and therefore of limiting any subsidies or other measures which make that expansion difficult.

Section D—State Trading and Related Matters

ARTICLE 29—NON-DISCRIMINATORY TREATMENT

1. (*a*) Each Member 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 and sales involving either imports or exports, act in a manner consistent with the general principles of non-discriminatory treatment prescribed in this Charter for governmental measures affecting imports or exports by private traders.

(*b*) The provisions of sub-paragraph (*a*) shall be understood to require that such enterprises shall, having due regard to the other provisions of this Charter, 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 Member countries adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases or sales.

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

2. The provisions of paragraph 1 shall not apply to imports of products purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial sale. With respect to such imports, and with respect to the laws, regulations and requirements referred to in paragraph 8 (*a*) of Article 18, each Member shall accord to the trade of the other Members fair and equitable treatment.

ARTICLE 30—MARKETING ORGANIZATIONS

If a Member establishes or maintains a marketing board, commission or similar organization, the Member shall be subject:

(*a*) with respect to purchases or sales by any such organization, to the provisions of paragraph 1 of Article 29;

(*b*) with respect to any regulations of any such organization governing the operations of private enterprises, to the other relevant provisions of this Charter.

ARTICLE 31—EXPANSION OF TRADE

1. If a Member establishes, maintains or authorizes, formally or in effect, a monopoly of the importation or exportation of any product, the Member shall, upon the request of any other Member or Members having a substantial interest in trade with it in the product concerned, negotiate with such other Member or Members in the manner provided for under Article 17 in respect of tariffs, and subject to all the provisions of this Charter with respect to such tariff negotiations, with the object of achieving:

(*a*) in the case of an export monopoly, arrangements designed to limit or reduce any protection that might be afforded through the operation of the monopoly to domestic users of the monopolized product, or designed to assure exports of the monopolized product in adequate quantities at reasonable prices;

(*b*) in the case of an import monopoly, arrangements designed to limit or reduce any protection that might be afforded through the operation of the monopoly to domestic producers of the monopolized product or designed to relax any limitation on imports which is comparable with a limitation made subject to negotiation under other provisions of this Chapter.

2. In order to satisfy the requirements of paragraph 1 (*b*), the Member establishing, maintaining or authorizing a monopoly shall negotiate:

(*a*) for the establishment of the maximum import duty that may be applied in respect of the product concerned; or

(*b*) for any other mutually satisfactory arrangement consistent with the provisions of this Charter, if it is evident to the negotiating parties that to negotiate a maximum import duty under sub-paragraph (*a*) of this paragraph is impracticable or would be ineffective for the achievement of the objectives of paragraph 1; any Member entering into negotiations under this sub-paragraph shall afford to other interested Members an opportunity for consultation.

3. In any case in which a maximum import duty is not negotiated under paragraph 2 (*a*), the Member establishing, maintaining or authorizing the import monopoly shall make public, or notify the Organization of, the maximum import duty which it will apply in respect of the product concerned.

4. The import duty negotiated under paragraph 2, or made public or notified to the Organization under paragraph 3, shall represent the maximum margin by which the price charged by the import monopoly for the imported product (exclusive of internal taxes conforming to the provisions of Article 18, transportation, distribution and other expenses incident to the purchase, sale or further processing, and a reasonable margin of profit) may exceed the landed cost; *Provided* that regard may be had to average landed costs and selling prices over recent periods; and *Provided further* that, where the product concerned is a primary commodity which is the subject of a domestic price stabilization arrangement, provision may be made for adjustment to take account of wide fluctuations or variations in world prices, subject where a maximum duty has been negotiated to agreement between the countries parties to the negotiations.

5. With regard to any product to which the provisions of this Article apply, the monopoly shall, wherever this principle can be effectively applied and subject to the other provisions of this Charter, import and offer for sale such quantities of the product as will be sufficient to satisfy the full domestic demand for the imported product, account being taken of any rationing to consumers of the imported and like domestic product which may be in force at that time.

6. In applying the provisions of this Article, due regard shall be had for the fact that some monopolies are established and operated mainly for social, cultural, humanitarian or revenue purposes.

7. This Article shall not limit the use by Members of any form of assistance to domestic producers permitted by other provisions of this Charter.

ARTICLE 32.—LIQUIDATION OF NON-COMMERCIAL STOCKS

1. If a Member holding stocks of any primary commodity accumulated for non-commercial purposes should liquidate such stocks, it shall carry out the liquidation, as far as practicable, in a manner that will avoid serious disturbance to world markets for the commodity concerned.

2. Such Member shall:

(*a*) give not less than four months' public notice of its intention to liquidate such stocks; or

(*b*) give not less than four months' prior notice to the Organization of such intention.

3. Such Member shall, at the request of any Member which considers itself substantially interested, consult as to the best means of avoiding substantial injury to the economic interests of producers and consumers of the primary commodity in question. In cases where the interests of several Members might be substantially affected, the Organization may participate in the consultations, and the Member holding the stocks shall give due consideration to its recommendations.

4. The provisions of paragraphs 2 and 3 shall not apply to routine disposal of supplies necessary for the rotation of stocks to avoid deterioration.

Section E—General Commercial Provisions

ARTICLE 33—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 Member country, 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 Member country 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 each Member country, via the routes most convenient for international transit, for traffic in transit to or from other Member countries. 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.

3. Any Member 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 other Member countries 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 commensurate with administrative expenses entailed by transit or with the cost of services rendered.

4. All charges and regulations imposed by Members on traffic in transit to or from other Member countries 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 Member shall accord to traffic in transit to or from any other Member country treatment no less favourable than the treatment accorded to traffic in transit to or from any third country.

6. The Organization may undertake studies, make recommendations and promote international agreement relating to the simplification of customs regulations concerning traffic in transit, the equitable use of facilities required for such transit and other measures designed to promote the objectives of this Article. Members shall cooperate with each other directly and through the Organization to this end.

7. Each Member shall accord to goods which have been in transit through any other Member country treatment no less favourable than that which would have been accorded to such goods had they been transported from their place of origin to their destination without going through such other Member country. Any Member shall, however, be free to maintain its requirements of direct consignment existing on the date of this Charter, 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 Member's prescribed method of valuation for customs purposes.

8. 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 34.—ANTI-DUMPING AND COUNTERVAILING DUTIES

1. The Members recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in a Member country or materially retards the establishment of a domestic industry. For the purposes of this Article, a product is to be considered as being introduced into the commerce of an importing country at less than its normal value, if 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. In order to offset or prevent dumping, a Member may levy on any dumped product an antidumping duty not greater in amount than the margin of dumping in respect of such product. For the purposes of this Article, the margin of dumping is the price difference determined in accordance with the provisions of paragraph 1.

3. No countervailing duty shall be levied on any product of any Member country imported into another Member country 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 export of any merchandise.

4. No product of any Member country imported into any other Member country 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.

5. No product of any Member country imported into any other Member country shall be subject to both anti-dumping and countervailing duties to compensate for the same situation of dumping or export subsidization.

6. No Member shall levy any anti-dumping or countervailing duty on the importation of any product of another Member country 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 retard materially the establishment of a domestic industry. The Organization may waive the requirements of this paragraph so as to permit a Member 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 another Member country exporting the product concerned to the importing Member country.

7. 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 commodity for export at a price lower than the comparable price charged for the like commodity to buyers in the domestic market, shall be presumed not to result in material injury within the meaning of paragraph 6 if it is determined by consultation among the Members substantially interested in the commodity concerned that:

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

(*b*) 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 Members.

ARTICLE 35—VALUATION FOR CUSTOMS PURPOSES

1. The Members shall work toward the standardization, as far as practicable, of definitions of value and of procedures for determining the value of products subject to customs duties or other charges or restrictions based upon or regulated in any manner by value. With a view to furthering co-operation to this end, the Organization may study and recommend to Members such bases and methods for determining value for customs purposes as would appear best suited to the needs of commerce and most capable of general adoption.

2. The Members recognize the validity of the general principles of valuation set forth in paragraphs 3, 4 and 5, and they undertake to give effect, at the earliest practicable date, to these principles in respect of all products subject to duties or other charges or restrictions on importation based upon or regulated in any manner by value. Moreover, they shall, upon a request by another Member directly affected, review in the light of these principles the operation of any of their laws or regulations relating to value for customs purposes. The Organization may request from Members reports on steps taken by them in pursuance of the provisions of this Article.

3. (*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*), the value for customs purposes should be based on the nearest ascertainable equivalent of such value.

4. 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.

5. (*a*) Except as otherwise provided in this paragraph, where it is necessary for the purposes of paragraph 3 for a Member 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 24 of this Charter.

(*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 Organization, in agreement with the International Monteary Fund, shall formulate rules governing the conversion by Members 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 Member may apply such rules in respect of such foreign currencies for the purposes of paragraph 3 of this Article as an alternative to the use of par values. Until such rules are adopted by the Organization, any Member may employ, in respect of any such foreign currency, rules of conversion for the purposes of paragraph 3 of this Article which are designed to reflect effectively the value of such foreign currency in commercial transactions.

6. Nothing in this Article shall be construed to require any Member to alter the method of converting currencies for customs purposes which is applicable in its territory on the date of this Charter, if such alteration would have the effect of increasing generally the amounts of duty payable.

7. 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 36—FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION

1. The Members recognize that all fees and charges of whatever character (other than import and export duties and other than taxes within the purview of Article 18) 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 domestic products or a taxation of imports or exports for fiscal purposes. The Members 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 Members shall take action in accordance with the principles and objectives of paragraph 1 at the earliest practicable date. Moreover, they shall, upon request by another Member directly affected, review the operation of any of their laws and regulations in the light of these principles. The Organization may request from Members reports on steps taken by them in pursuance of the provisions of this paragraph.

3. The provisions of paragraphs 1 and 2 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 those relating to 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.

4. The Organization may study and recommend to Members specific measures for the simplification and standardization of customs formalities and techniques and for the elimination of unnecessary customs requirements, including those relating to advertising matter and samples for use only in taking orders for merchandise.

5. No Member 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.

6. The Members recognize that tariff descriptions based on distinctive regional or geographical names should not be used in such a manner as to discriminate against products of Member countries. Accordingly, the Members shall co-operate with each other directly and through the Organization with a view to eliminating at the earliest practicable date practices which are inconsistent with this principle.

ARTICLE 37—MARKS OF ORIGIN

1. The Members recognize that, in adopting and implementing laws and regulations relating to marks of origin, the difficulties and inconveniences which such measures may cause to the commerce and industry of exporting countries should be reduced to a minimum.

2. Each Member shall accord to the products of each other Member country treatment with regard to marking requirements no less favourable than the treatment accorded to like products of any third country.

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

4. The laws and regulations of Members 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.

5. The Members agree to work in co-operation through the Organization towards the early elimination of unnecessary marking requirements. The Organization may study and recommend to Members measures directed to this end, including the adoption of schedules of general categories of products, in respect of which marking requirements operate to restrict trade to an extent disproportionate to any proper purpose to be served, and which shall not in any case be required to be marked to indicate their origin.

6. As a general rule no special duty or penalty should be imposed by any Member 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.

7. The Members shall co-operate with each other directly and through the Organization 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 the distinctive regional or geographical names of products of a Member country which are protected by the legislation of such country. Each Member shall accord full and sympathetic consideration to such requests or representations as may be made by any other Member 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 Member. The Organization may recommend a conference of interested Members on this subject.

ARTICLE 38—PUBLICATION AND ADMINISTRATION OF TRADE REGULATIONS

1. Laws, regulations, judicial decisions and administrative rulings of general application made effective by any Member, 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 governmental agency of any Member country and the government or governmental agency of any other country shall also be published. Copies of such laws, regulations, decisions, rulings and agreements shall be communicated promptly to the Organization. The provisions of this paragraph shall not require any Member to divulge confidential information the disclosure of 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 Member 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 made public.

3. (*a*) Each Member shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1. Suitable facilities shall be afforded for traders directly affected by any of those matters to consult with the appropriate governmental authorities.

(*b*) Each Member 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*) shall not require the elimination or substitution of procedures in force in a Member country on the date of this Charter 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 Member employing such procedures shall, upon request, furnish the Organization with full information thereon in order that the Organization may determine whether such procedures conform to the requirements of this sub-paragraph.

ARTICLE 39—INFORMATION, STATISTICS AND TRADE TERMINOLOGY

1. The Members shall communicate to the Organization, or to such agency as may be designated for the purpose by the Organization, as promptly and in as much detail as is reasonably practicable:

(*a*) statistics of their external trade in goods (imports, exports and, where applicable, re-exports, transit and trans-shipment and goods in warehouse or in bond);

(*b*) statistics of governmental revenue from import and export duties and other taxes on goods moving in international trade and, in so far as readily ascertainable, of subsidy payments affecting such trade.

2. So far as possible, the statistics referred to in paragraph 1 shall be related to tariff classifications and shall be in such form as to reveal the operation of any restrictions on importation or exportation which are based on or regulated in any manner by quantity or value or amounts of exchange made available.

3. The Members shall publish regularly and as promptly as possible the statistics referred to in paragraph 1.

4. The Members shall give careful consideration to any recommendations which the Organization may make to them with a view to improving the statistical information furnished under paragraph 1.

5. The Members shall make available to the Organization, at its request and in so far as is reasonably practicable, such other statistical information as the Organization may deem necessary to enable it to fulfil its functions, providedthat such information is not being furnished to other inter-governmental organizations from which the Organization can obtain it.

6. The Organization shall act as a centre for the collection, exchange and publication of statistical information of the kind referred to in paragraph 1. The Organization, in collaboration with the Economic and Social Council of the United Nations, and with any other organization deemed appropriate, may engage in studies with a view to improving the methods of collecting, analyzing and publishing economic statistics and may promote the international comparability of such statistics, including the possible international adoption of standard tariff and commodity classifications.

7. The Organization, in co-operation with the other organizations referred to in paragraph 6, may also study the question of adopting standards, nomenclatures, terms and forms to be used in international trade and in the official documents and statistics of Members relating thereto, and may recommend the general acceptance by Members of such standards, nomenclatures, terms and forms.

Section F—Special Provisions

ARTICLE 40—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 Member under or pursuant to this Chapter, including tariff concessions, any product is being imported into the territory of that Member in such relatively 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 Member 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 Member in the circumstances set forth in sub-paragraph (*a*), so as to cause or threaten serious injury to domestic producers of like or directly competitive products in the territory of a Member which receives or received such preference, the importing Member shall be free, if that other Member 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 Member shall take action pursuant to the provisions of paragraph 1, it shall give notice in writing to the Organization as far in advance as may be practicable and shall afford the Organization and those Members 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 regard to a concession relating to a preference, the notice shall name the Member which has requested the action. In circumstances of special urgency, where delay would cause damage which it would be difficult to repair, action under paragraph 1 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 Members with respect to the action is not reached, the Member 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 Members 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 Organization, the application to the trade of the Member taking such action, or, in the case envisaged in paragraph 1 (*b*), to the trade of the Member requesting such action, of such substantially equivalent obligations or concessions under or pursuant to this Chapter the suspension of which the Organization does not disapprove.

(*b*) Notwithstanding the provisions of sub-paragraph (*a*), where action is taken without prior consultation under paragraph 2 and causes or threatens serious injury in the territory of a Member to the domestic producers of products affected by the action, that Member 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.

4. Nothing in this Article shall be construed

(*a*) to require any Member, in connection with the withdrawal or modification by such Member of any concession negotiated pursuant to Article 17, to consult with or obtain the agreement of Members others than those Members which are contracting parties to the General Agreement on Tariffs and Trade, or

(*b*) to authorize any Member which is not a contracting party to that Agreement, to withdraw from or suspend obligations under this Charter by reason of the withdrawal or modification of such concession.

ARTICLE 41—CONSULTATION

Each Member shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as may be made by any other Member with respect to the operation of customs regulations and formalities, anti-dumping and countervailing duties, quantitative and exchange regulations, internal price regulations, subsidies, transit regulations and practices, state trading, sanitary laws and regulations for the protection of human, animal or plant life or health, and generally with respect to all matters affecting the operation of this Chapter.

ARTICLE 42—TERRITORIAL APPLICATION OF CHAPTER IV

1. The provisions of Chapter IV shall apply to the metropolitan customs territories of the Members and to any other customs territories in respect of which this Charter has been accepted in accordance with the provisions of Article104. Each such customs territory shall, exclusively for the purposes of the territorial application of Chapter IV, be treated as though it were a Member; *Provided* that the provisions of this paragraph shall not be construed to create any rights or obligations as between two or more customs territories in respect of which this Charter has been accepted by a single Member.

2. For the purposes of this Chapter 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.

ARTICLE 43—FRONTIER TRAFFIC

The provisions of this Chapter shall not be construed to prevent:

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

(*b*) advantages accorded to the trade with the Free Territory of Trieste by countries contiguous to that territory, provided that such advantages are not in conflict with the Treaties of Peace arising out of the Second World War.

ARTICLE 44—CUSTOMS UNIONS AND FREE-TRADE AREAS

1. Members recognize the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries parties to such agreements. They also recognize that the purpose of a customs union or free-trade area should be to facilitate trade between the parties and not to raise barriers to the trade of other Member countries with such parties.

2. Accordingly, the provisions of this Chapter shall not prevent, as between the territories of Members, the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area; *Provided* that:

(*a*) with respect to a customs union, or an interim agreement leading to the formation of a customs union, the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with Member countries not parties to such union or agreement shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union or the adoption of such interim agreement, as the case may be;

(*b*) with respect to a free-trade area, or an interim agreement leading to the formation of a free-trade area, the duties and other regulations of commerce maintained in each of the constituent territories and applicable at the formation of such free-trade area or the adoption of such interim agreement to the trade of Member countries not included in such area or not parties to such agreement shall not be higher or more restrictive than the corresponding duties and other regulations of commerce existing in the same constituent territories prior to the formation of the free-trade area, or interim agreement, as the case may be; and

(*c*) any interim agreement referred to in sub-paragraphs (*a*) or (*b*) shall include a plan and schedule for the formation of such a customs union or of such a free-trade area within a reasonable length of time.

3. (*a*) Any Member deciding to enter into a customs union or free-trade area, or an interim agreement leading to the formation of such a union or area, shall promptly notify the Organization and shall make available to it such information regarding the proposed union or area as will enable the Organization to make such reports and recommendations to Members as it may deem appropriate.

(*b*) If, after having studied the plan and schedule provided for in an interim agreement referred to in paragraph 2 in consultation with the parties to that agreement and taking due account of the information made available in accordance with the provisions of sub-paragraph (*a*), the Organization finds that such agreement is not likely to result in the formation of a customs union or of a free-trade area within the period contemplated by the parties to the agreement or that such period is not a reasonable one, the Organization shall make recommendations to the parties to the agreement. The parties shall not maintain or put into force,

as the case may be, such agreement if they are not prepared to modify it in accordance with these recommendations.

(*c*) Any substantial change in the plan or schedule referred to in paragraph 2 (*c*) shall be communicated to the Organization, which may request the Members concerned to consult with it if the change seems likely to jeopardize or delay unduly the formation of the customs union or of the free-trade area.

4. For the purposes of this Charter:

(*a*) a customs union shall be understood to mean the substitution of a single customs territory for two or more customs territories, so that

(i) duties and other restrictive regulations of commerce (except, where necessary, those permitted under Section B of Chapter IV and under Article 45) are eliminated with respect to substantially all the trade between the constituent territories of the union or at least with respect to substantially all the trade in products originating in such territories, and,

(ii) subject to the provisions of paragraph 5, substantially the same duties 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;

(*b*) a free-trade area shall be understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce (except, where necessary, those permitted under Section B of Chapter IV and under Article 45) are eliminated on substantially all the trade between the constituent territories in products originating in such territories.

5. The preferences referred to in paragraph 2 of Article 16 shall not be affected by the formation of a customs union or of a free-trade area but may be eliminated or adjusted by means of negotiations with Members affected. This procedure of negotiations with affected Members shall, in particular, apply to the elimination of preferences required to conform with the provisions of paragraph 4 (*a*) (i) and paragraph 4 (*b*).

6. The Organization may, by a two-thirds majority of the Members present and voting, approve proposals which do not fully comply with the requirements of the preceding paragraphs, provided that such proposals lead to the formation of a customs union or of a free-trade area in the sense of this Article.

ARTICLE 45—GENERAL EXCEPTIONS TO CHAPTER IV

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

(*a*)

(i) necessary to protect public morals;

(ii) necessary to the enforcement of laws and regulations relating to public safety;

(iii) necessary to protect human, animal or plant life or health;

(iv) relating to the importation or exportation of gold or silver;

(v) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter, including those relating to customs enforcement, the enforcement of monopolies operated under Section D of this Chapter, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;

(vi) relating to the products of prison labour;

(vii) imposed for the protection of national treasures of artistic, historic or archaeological value;

(viii) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;

(ix) taken in pursuance of intergovernmental commodity agreements concluded in accordance with the provisions of Chapter VI;

(x) taken in pursuance of any inter-governmental agreement which relates solely to the conservation of fisheries resources, migratory birds or wild animals and which is subject to the requirements of paragraph 1 (*d*) of Article 70; or

(xi) 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 Chapter relating to non-discrimination;

(*b*)

(i) essential to the acquisition or distribution of products in general or local short supply; *Provided* that any such measures shall be consistent with any general intergovernmental arrangements directed to an equitable international distribution of such products or, in the absence of such arrangements, with the principle that all Members are entitled to an equitable share of the international supply of such products;

(ii) essential to the control of prices by a Member country experiencing shortages subsequent to the Second World War; or

(iii) essential to the orderly liquidation of temporary surpluses of stocks owned or controlled by the government of any Member country, or of industries developed in any Member country owing to the exigencies of the Second World War which it would be uneconomic to maintain in normal conditions; *Provided* that such measures shall not be instituted by any Member except after consultation with other interested Members with a view to appropriate international action.

2. Measures instituted or maintained under paragraph 1 (*b*) which are inconsistent with the other provisions of this Chapter shall be removed as soon as the conditions giving rise to them have ceased, and in any event not later than at a date to be specified by the Organization; *Provided* that such date may be deferred for a further period or periods, with the concurrence of the Organization, either generally or in relation to particular measures taken by Members in respect of particular products.

Chapter V—Restrictive Business Practices

ARTICLE 46—GENERAL POLICY TOWARDS RESTRICTIVE BUSINESS PRACTICES

1. Each Member shall take appropriate measures and shall co-operate with the Organization to prevent, on the part of private or public commercial enterprises, business practices affecting international trade which restrain competition, limit access to markets, or foster monopolistic control, whenever such practices have harmful effects on the expansion of production or trade and interfere with the achievement of any of the other objectives set forth in Article 1.

2. In order that the Organization may decide in a particular instance whether a practice has or is about to have the effect indicated in paragraph 1, the Members agree, without limiting paragraph 1, that complaints regarding any of the practices listed in paragraph 3 shall be subject to investigation in accordance with the procedure regarding complaints provided for in Articles 48 and 50, whenever

(*a*) such a complaint is presented to the Organization, and

(*b*) the practice is engaged in, or made effective, by one or more private or public commercial enterprises or by any combination, agreement or other arrangement between any such enterprises, and

(*c*) such commercial enterprises, individually or collectively, possess effective control of trade among a number of countries in one or more products.

3. The practices referred to in paragraph 2 are the following:

(*a*) fixing prices, terms or conditions to be observed in dealing with others in the purchase, sale or lease of any product;

(*b*) excluding enterprises from, or allocating or dividing, any territorial market or field of business activity, or allocating customers, or fixing sales quotas or purchase quotas;

(*c*) discriminating against particular enterprises;

(*d*) limiting production or fixing production quotas;

(*e*) preventing by agreement the development or application of technology or invention whether patented or unpatented;

(*f*) extending the use of rights under patents, trade marks or copyrights granted by any Member to matters which, according to its laws and regulations, are not within the scope of such grants, or to products or conditions of production, use or sale which are likewise not the subjects of such grants;

(*g*) any similar practices which the Organization may declare, by a majority of two-thirds of the Members present and voting, to be restrictive business practices.

ARTICLE 47—CONSULTATION PROCEDURE

Any affected Member which considers that in any particular instance a practice exists (whether engaged in by private or public commercial enterprises) which

has or is about to have the effect indicated in paragraph 1 of Article 46 may consult other Members directly or request the Organization to arrange for consultation with particular Members with a view to reaching mutually satisfactory conclusions. If requested by the Member and if it considers such action to be justified, the Organization shall arrange for and assist in such consultation. Action under this Article shall be without prejudice to the procedure provided for in Article 48.

ARTICLE 48—INVESTIGATION PROCEDURE

1. In accordance with paragraphs 2 and 3 of Article 46, any affected Member on its own behalf or any Member on behalf of any affected person, enterprise or organization within that Member's jurisdiction, may present a written complaint to the Organization that in any particular instance a practice exists (whether engaged in by private or public commercial enterprises) which has or is about to have the effect indicated in paragraph 1 of Article 46; *Provided* that in the case of complaints against a public commercial enterprise acting independently of any other enterprise, such complaints may be presented only by a Member on its own behalf and only after the Member has resorted to the procedure of Article 47.

2. The Organization shall prescribe the minimum information to be included in complaints under this Article. This information shall give substantial indication of the nature and harmful effects of the practices.

3. The Organization shall consider each complaint presented in accordance with paragraph 1. If the Organization deems it appropriate, it shall request Members concerned to furnish supplementary information, for example, information from commercial enterprises within their jurisdiction. After reviewing the relevant information, the Organization shall decide whether an investigation is justified.

4. If the Organization decides that an investigation is justified, it shall inform all Members of the complaint, request any Member to furnish such additional information relevant to the complaint as the Organization may deem necessary, and shall conduct or arrange for hearings on the complaint. Any Member, and any person, enterprise or organization on whose behalf the complaint has been made, as well as the commercial enterprises alleged to have engaged in the practice complained of, shall be afforded reasonable opportunity to be heard.

5. The Organization shall review all information available and decide whether the conditions specified in paragraphs 2 and 3 of Article 46 are present and then practice in question has had, has or is about to have the effect indicated in paragraph 1 of that Article.

6. The Organization shall inform all Members of its decision and the reasons therefor.

7. If the Organization decides that in any particular case the conditions specified in paragraphs 2 and 3 of Article 46 are present and that the practice in question has had, has or is about to have the effect indicated in paragraph 1 of that Article, it shall request each Member concerned to take every possible remedial action, and may also recommend to the Members concerned remedial measures to be carried out in accordance with their respective laws and procedures.

8. The Organization may request any Member concerned to report fully on the remedial action it has taken in any particular case.

9. As soon as possible after its proceedings in respect of any complaint under this Article have been provisionally or finally closed, the Organization shall prepare and publish a report showing fully the decisions reached, the reason, therefor and any measures recommended to the Members concerned. The Organization shall not, if a Member so requests, disclose confidential information furnished by that Member, which if disclosed would substantially damage the legitimate business interests of a commercial enterprise.

10. The Organization shall report to all Members and make public the remedial action which has been taken by the Members concerned in any particular case.

ARTICLE 49—STUDIES RELATING TO RESTRICTIVE BUSINESS PRACTICES

1. The Organization is authorized:

(*a*) to conduct studies, either on its own initiative or at the request of any Member or of any organ of the United Nations or of any other inter-governmental organization, relating to

(i) general aspects of restrictive business practices affecting international trade;

(ii) conventions, laws and procedures concerning, for example, incorporation, company registration, investments, securities, prices, markets, fair trade practices, trade marks, copyrights, patents and the exchange

and development of technology in so far as they are relevant to restrictive business practices affecting international trade; and

(iii) the registration of restrictive business agreements and other arrangements affecting international trade; and

(*b*) to request information from Members in connection with such studies.

2. The Organization is authorized:

(*a*) to make recommendations to Members concerning such conventions, laws and procedures as are relevant to their obligations under this Chapter; and

(*b*) to arrange for conferences of Members to discuss any matters relating to restrictive business practices affecting international trade.

ARTICLE 50—OBLIGATIONS OF MEMBERS

1. Each Member shall take all possible measures by legislation or otherwise in accordance with its constitution or system of law and economic organization, to ensure, within its jurisdiction, that private and public commercial enterprises do not engage in practices which are as specified in paragraphs 2 and 3 of Article 46 and have the effect indicated in paragraph 1 of that Article, and it shall assist the Organization in preventing these practices.

2. Each Member shall make adequate arrangements for presenting complaints, conducting investigations and preparing information and reports requested by the Organization.

3. Each Member shall furnish to the Organization, as promptly and as fully as possible, such information as is requested by the Organization for its consideration and investigation of compliants and for its conduct of studies under this Chapter; *Provided* that any Member on notification to the Organization, may withhold information which the Member considers is not essential to the Organization in conducting an adequate investigation and which, if disclosed, would substantially damage the legitimate business interests of a commercial enterprise. In notifying the Organization that it is withholding information pursuant to this clause, the Member shall indicate the general character of the information withheld and the reason why it considers it not essential.

4. Each Member shall take full account of each request, decision and recommendation of the Organization under Article 48 and, in accordance with its constitution or system of law and economic organization, take in the particular case the action it considers appropriate having regard to its obligations under this Chapter.

5. Each Member shall report fully any action taken, independently or in concert with other Members, to comply with the requests and carry out the recommendations of the Organization and, when no action has been taken, inform the Organization of the reasons therefor and discuss the matter further with the Organization if it so requests.

6. Each Member shall, at the request of the Organization, take part in consultations and conferences provided for in this Chapter with a view to reaching mutually satisfactory conclusions.

ARTICLE 51—CO-OPERATIVE REMEDIAL ARRANGEMENTS

1. Members may co-operate with each other for the purpose of making more effective within their respective jurisdictions any remedial measures taken in furtherance of the objectives of this Chapter and consistent with their obligations under other provisions of this Charter.

2. Members shall keep the Organization informed of any decision to participate in any such cooperative action and of any measures taken.

ARTICLE 52—DOMESTIC MEASURES AGAINST RESTRICTIVE BUSINESS PRACTICES

No act or omission to act on the part of the Organization shall preclude any Member from enforcing any national statute or decree directed towards preventing monopoly or restraint of trade.

ARTICLE 53—SPECIAL PROCEDURES WITH RESPECT TO SERVICES

1. The Members recognize that certain services, such as transportation, telecommunications, insurance and the commercial services of banks, are substantial elements of international trade and that any restrictive business practices by enterprises engaged in these activities in international trade may have harmful

effects similar to those indicated in paragraph 1 of Article 46. Such practices shall be dealt with in accordance with the following paragraphs of this Article.

2. If any Member considers that there exist restrictive business practices in relation to a service referred to in paragraph 1 which have or are about to have such harmful effects, and that its interests are thereby seriously prejudiced, the Members may submit a written statement explaining the situation to the Member or Members whose private or public enterprises are engaged in the services in question. The Member or Members concerned shall give sympathetic consideration to the statement and to such proposals as may be made and shall afford adequate opportunities for consultation, with a view to effecting a satisfactory adjustment.

3. If no adjustment can be effected in accordance with the provisions of paragraph 2, and if the matter is referred to the Organization, it shall be transferred to the appropriate inter-governmental organization, if one exists, with such observations as the Organization may wish to make. If no such inter-governmental organization exists, and if Members so request, the Organization may, in accordance with the provisions of paragraph 1 (*c*) of Article 72, make recommendations for, and promote international agreement on, measures designed to remedy the particular situation so far as it comes within the scope of this Charter.

4. The Organization shall, in accordance with paragraph 1 of Article 87, co-operate with other inter-governmental organizations in connection with restrictive business practices affecting any field coming within the scope of this Charter and those organizations shall be entitled to consult the Organization, to seek advice, and to ask that a study of a particular problem be made.

ARTICLE 54—INTERPRETATION AND DEFINITION

1. The provisions of this Chapter shall be construed with due regard for the rights and obligations of Members set forth elsewhere in this Charter and shall not therefore be so interpreted as to prevent the adoption and enforcement of any measures in so far as they are specifically permitted under other Chapters of this Charter. The Organization may, however, make recommendations to Members or to any appropriate inter-governmental organization concerning any features of these measures which may have the effect indicated in paragraph 1 of Article 46.

2. For the purposes of this Chapter

(*a*) the term "business practice" shall not be so construed as to include an individual contract between two parties as seller and buyer, lessor and lessee, or principal and agent, provided that such contract is not used to restrain competition, limit access to markets or foster monopolistic control;

(*b*) the term "public commercial enterprises" means

(i) agencies of governments in so far as they are engaged in trade, and

(ii) trading enterprises mainly or wholly owned by public authority,

provided the Member concerned declares that for the purposes of this Chapter it has effective control over or assumes responsibility for the enterprises;

(*c*) the term "private commercial enterprises" means all commercial enterprises other than public commercial enterprises;

(*d*) the terms "decide" and "decision" as used in Articles 46, 48 (except in paragraphs 3 and 4) and 50 do not determine the obligations of Members, but mean only that the Organization reaches a conclusion.

CHAPTER VI—INTER-GOVERNMENTAL COMMODITY AGREEMENTS

SECTION A—INTRODUCTORY CONSIDERATIONS

ARTICLE 55—DIFFICULTIES RELATING TO PRIMARY COMMODITIES

The Members recognize that the conditions under which some primary commodities are produced, exchanged and consumed are such that international trade in these commodities may be affected by special difficulties such as the tendency towards persistent disequilibrium between production and consumption, the accumulation of burdensome stocks and pronounced fluctuations in prices. These special difficulties may have serious adverse effects on the interest of producers and consumers, as well as widespread repercussions jeopardizing the general policy of economic expansion. The Members recognize that such difficulties may, at times, necessitate special treatment of the international trade in such commodities through inter-governmental agreement.

ARTICLE 56—PRIMARY AND RELATED COMMODITIES

1. For the purposes of this Chapter, the term "primary commodity" means any product of farm, forest or fishery or any mineral, in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade.

2. The term shall also, for the purposes of this Chapter, cover a group of commodities, of which one is a primary commodity as defined in paragraph 1 and the others are commodities, which are so closely related, as regards conditions of production or utilization, to the other commodities in the group, that it is appropriate to deal with them in a single agreement.

3. If, in exceptional circumstances, the Organization finds that the conditions set forth in Article 62 exist in the case of a commodity which does not fall precisely under paragraphs 1 or 2 of this Article, the Organization may decide that the provisions of this Chapter, together with any other requirements it may establish, shall apply to inter-governmental agreements regarding that commodity.

ARTICLE 57—OBJECTIVES OF INTER-GOVERNMENTAL COMMODITY AGREEMENTS

The Members recognize that inter-governmental commodity agreements are appropriate for the achievement of the following objectives:

(*a*) to prevent or alleviate the serious economic difficulties which may arise when adjustments between production and consumption cannot be effected by normal market forces alone as rapidly as the circumstances require;

(*b*) to provide, during the period which may be necessary, a framework for the consideration and development of measures which have as their purpose economic adjustments designed to promote the expansion of consumption or a shift of resources and man-power out of over-expanded industries into new and productive occupations, including as far as possible in appropriate cases, the development of secondary industries based upon domestic production of primary commodities;

(*c*) to prevent or moderate pronounced fluctuations in the price of a primary commodity with a view to achieving a reasonable degree of stability on a basis of such prices as are fair to consumers and provide a reasonable return to producers, having regard to the desirability of securing long-term equilibrium between the forces of supply and demand;

(*d*) to maintain and develop the natural resources of the world and protect them from unnecessary exhaustion;

(e) to provide for the expansion of the production of a primary commodity where this can be accomplished with advantage to consumers and producers, including in appropriate cases the distribution of basic foods at special prices;

(*f*) to assure the equitable distribution of a primary commodity in short supply.

SECTION B—INTER-GOVERNMENTAL COMMODITY AGREEMENTS IN GENERAL

ARTICLE 58—COMMODITY STUDIES

1. Any Member which considers itself substantially interested in the production or consumption of, or trade in, a particular primary commodity, and which considers that international trade in that commodity is, or is likely to be, affected by special difficulties, shall be entitled to ask that a study of the commodity be made.

2. Unless the Organization decides that the case put forward in support of the request does not warrant such action, it shall promptly invite each Member to appoint representatives to a study group for the commodity, if the Member considers itself substantially interested in the production or consumption of, or trade in, the commodity. Non-Members may also be invited.

3. The study group shall promptly investigate the production, consumption and trade situation in regard to the commodity, and shall report to the participating governments and to the Organization its findings and its recommendations as to how best to deal with any special difficulties which exist or may be expected to arise. The Organization shall promptly transmit to the Members these findings and recommendations.

ARTICLE 59.—COMMODITY CONFERENCES

1. The Organization shall promptly convene an inter-governmental conference to discuss measures designed to meet the special difficulties which exist or are expected to arise concerning a particular primary commodity:

(*a*) on the basis of the recommendations of a study group, or

(*b*) at the request of Members whose interests represent a significant part of world production or consumption of, or trade in, that commodity, or

(*c*) at the request of Members which consider that their economies are dependent to an important extent on that commodity, unless the Organization considers that no useful purpose could be achieved by convening the conference, or

(*d*) on its own initiative, on the basis of information agreed to be adequate by the Members substantially interested in the production or consumption of, or trade in, that commodity.

2. Each Member which considers itself substantially interested in the production or consumption of, or trade in, the commodity concerned, shall be invited to participate in such a conference. Non-Members may also be invited to participate.

ARTICLE 60.—GENERAL PRINCIPLES GOVERNING COMMODITY AGREEMENTS

1. The Members shall observe the following principles in the conclusion and operation of all types of inter-governmental commodity agreements:

(*a*) Such agreements shall be open to participation, initially by any Member on terms no less favourable than those accorded to any other country, and thereafter in accordance with such procedure and upon such terms as may be established in the agreement, subject to approval by the Organization.

(*b*) Non-Members may be invited by the Organization to participate in such agreements and the provisions of sub-paragraph (*a*) applying to Members shall also apply to any non-Member so invited.

(*c*) Under such agreements there shall be equitable treatment as between participating countries and non-participating Members, and the treatment accorded by participating countries to non-participating Members shall be no less favourable than that accorded to any non-participating non-Member, due consideration being given in each case to policies adopted by non-participants in relation to obligations assumed and advantages conferred under the agreement.

(*d*) Such agreements shall include provision for adequate participation of countries substantially interested in the importation or consumption of the commodity as well as those substantially interested in its exportation or production.

(*e*) Full publicity shall be given to any inter-governmental commodity agreement proposed or concluded, to the statements of considerations and objectives advanced by the proposing Members, to the nature and development of measures adopted to correct the underlying situation which gave rise to the agreement and, periodically, to the operation of the agreement.

2. The Members, including Members not parties to a particular commodity agreement, shall give favourable consideration to any recommendation made under the agreement for expanding consumption of the commodity in question.

ARTICLE 61—TYPES OF AGREEMENTS

1. For the purposes of this Chapter, there are two types of inter-governmenta commodity agreements:

(*a*) commodity control agreements as defined in this Article; and

(*b*) other inter-governmental commodity agreements.

2. Subject to the provisions of paragraph 5, a commodity control agreement is an inter-governmental agreement which involves:

(*a*) the regulation of production or the quantitative control of exports or imports of a primary commodity and which has the purpose or might have the effect of reducing, or preventing an increase in, the production of, or trade in, that commodity; or

(*b*) the regulation of prices.

3. The Organization shall, at the request of a Member, a study group or a commodity conference, decide whether an existing or proposed inter-governmental agreement is a commodity control agreement within the meaning of paragraph 2.

4. (*a*) Commodity control agreements shall be subject to all the provisions of this Chapter.

(*b*) Other inter-governmental commodity agreements shall be subject to the provisions of this Chapter other than those of Section C. If, however, the Organization decides that an agreement which involves the regulation of production or the quantitative control of exports or imports is not a commodity

control agreement within the meaning of paragraph 2, it shall prescribe the provisions of Section C, if any, to which that agreement shall conform.

5. An existing or proposed inter-governmental agreement the purpose of which is to secure the co-ordinated expansion of aggregate world production and consumption of a primary commodity may be treated by the Organization as not being a commodity control agreement, even though the agreement provides for the future application of price provisions, provided that

(*a*) at the time the agreement is entered into, a commodity conference finds that the conditions contemplated are in accordance with the provisions of Article 62, and

(*b*) from the date on which the price provisions become operative, the agreement shall conform to all the provisions of Section C, except that no further finding will be required under Article 62.

6. Members shall enter into any new commodity control agreement only through a conference called in accordance with the provisions of Article 59 and after an appropriate finding has been made under Article 62. If, in an exceptional case, there has been unreasonable delay in the convening or in the proceedings of the study group or of the commodity conference, Members which consider themselves substantially interested in the production or consumption of, or trade in, a particular primary commodity, may proceed by direct negotiation to the conclusion of an agreement, provided that the situation is one contemplated in Article 62 (*a*) or (*b*) and that the agreement conforms to the other provisions of this Chapter.

Section C—Inter-Governmental Commodity Control Agreements

ARTICLE 62—CIRCUMSTANCES GOVERNING THE USE OF COMMODITY CONTROL AGREEMENTS

The members agree that commodity control agreements may be entered into only when a finding has been made through a commodity conference or through the Organization by consultation and general agreement among Members substantially interested in the commodity, that:

(*a*) a burdensome surplus of a primary commodity has developed or is expected to develop, which, in the absence of specific governmental action, would cause serious hardship to producers among whom are small producers who account for a substantial portion of the total output, and that these conditions could not be corrected by normal market forces in time to prevent such hardship, because, characteristically in the case of the primary commodity concerned, a substantial reduction in price does not readily lead to a significant increase in consumption or to a significant decrease in production; or

(*b*) widespread unemployment or under-employment in connection with a primary commodity, arising out of difficulties of the kind referred to in Article 55, has developed or is expected to develop, which, in the absence of specific governmental action, would not be corrected by normal market forces in time to prevent widespread and undue hardship to workers because, characteristically in the case of the industry concerned, a substantial reduction in price does not readily lead to a significant increase in consumption but to a reduction of employment, and because areas in which the commodity is produced in substantial quantity do not afford alternative employment opportunities for the workers involved.

ARTICLE 63—ADDITIONAL PRINCIPLES GOVERNING COMMODITY CONTROL AGREEMENTS

The Members shall observe the following principles governing the conclusion and operation of commodity control agreements, in addition to those stated in Article 60:

(*a*) Such agreements shall be designed to assure the availability of supplies adequate at all times for world demand at prices which are in keeping with the provisions of Article 57 (*c*), and, when practicable, shall provide for measures designed to expand world consumption of the commodity.

(*b*) Under such agreements, participating countries which are mainly interested in imports of the commodity concerned shall, in decisions on substantive matters, have together a number of votes equal to that of those mainly interested in obtaining export markets for the commodity. Any participating country, which is interested in the commodity but which does not fall precisely under either of the above classes, shall have an appropriate voice within such classes.

(*c*) Such agreements shall make appropriate provision to afford increasing opportunities for satisfying national consumption and world market requirements from sources from which such requirements can be supplied in the most effective and economic manner, due regard being had to the need for preventing serious economic and social dislocation and to the position of producing areas suffering from abnormal disabilities.

(*d*) Participating countries shall formulate and adopt programmes of internal economic adjustment believed to be adequate to ensure as much progress as practicable within the duration of the agreement towards solution of the commodity problem involved.

ARTICLE 64—ADMINISTRATION OF COMMODITY CONTROL AGREEMENTS

1. Each commodity control agreement shall provide for the establishment of a governing body, herein referred to as a Commodity Council, which shall operate in conformity with the provisions of this Article.

2. Each participating country shall be entitled to have one representative on the Commodity Council. The voting power of the representatives shall be determined in conformity with the provisions of Article 63 (*b*).

3. The Organization shall be entitled to appoint a non-voting representative to each Commodity Council and may invite any competent inter-governmental organization to nominate a non-voting representative for appointment to a Commodity Council.

4. Each Commodity Council shall appoint a non-voting chairman who, if the Council so requests, may be nominated by the Organization.

5. The Secretariat of each Commodity Council shall be appointed by the Council after consultation with the Organization.

6. Each Commodity Council shall adopt appropriate rules of procedure and regulations regarding its activities. The Organization may at any time require their amendment if it considers that they are inconsistent with the provisions of this Chapter.

7. Each Commodity Council shall make periodic reports to the Organization on the operation of the agreement which it administers. It shall also make such special reports as the Organization may require or as the Council itself considers to be of value to the Organization.

8. The expenses of a Commodity Council shall be borne by the participating countries.

9. When an agreement is terminated, the Organization shall take charge of the archives and statistical material of the Commodity Council.

ARTICLE 65—INITIAL TERM, RENEWAL AND REVIEW OF COMMODITY CONTROL AGREEMENTS

1. Commodity control agreements shall be concluded for a period of not more than five years. Any renewal of a commodity control agreement, including agreements referred to in paragraph 1 of Article 68, shall be for a period not exceeding five years. The provisions of such renewed agreements shall conform to the provisions of this Chapter.

2. The Organization shall prepare and publish periodically, at intervals not greater than three years, a review of the operation of each agreement in the light of the principles set forth in this Chapter.

3. Each commodity control agreement shall provide that, if the Organization finds that its operation has failed substantially to conform to the principles laid down in this Chapter, participating countries shall either revise the agreement to conform to the principles or terminate it.

4. Commodity control agreements shall include provisions relating to withdrawal of any party.

ARTICLE 66—SETTLEMENT OF DISPUTES

Each commodity control agreement shall provide that:

(*a*) any question or difference concerning the interpretation of the provisions of the agreement or arising out of its operation shall be discussed originally by the Commodity Council; and

(*b*) if the question or difference cannot be resolved by the Council in accordance with the terms of the agreement, it shall be referred by the Council to the Organization, which shall apply the procedure set forth in Chapter VIII with appropriate adjustments to cover the case of non-Members.

SECTION D—MISCELLANEOUS PROVISIONS

ARTICLE 67—RELATIONS WITH INTER-GOVERNMENTAL ORGANIZATIONS

With the object of ensuring appropriate cooperation in matters relating to inter-governmental commodity agreements, any inter-governmental organization which is deemed to be competent by the Organization, such as the Food and Agriculture Organization, shall be entitled:

(*a*) to attend any study group or commodity conference;

(*b*) to ask that a study of a primary commodity be made;

(*c*) to submit to the Organization any relevant study of a primary commodity, and to recommend to the Organization that further study of the commodity be made or that a commodity conference be convened.

ARTICLE 68—OBLIGATIONS OF MEMBERS REGARDING EXISTING AND PROPOSED COMMODITY AGREEMENTS

1. Members shall transmit to the Organization the full text of each inter-governmental commodity agreement in which they are participating at the time they become Members of the Organization, together with appropriate information regarding the formulation, provisions and operation of any such agreement. If, after review, the Organization finds that any such agreement is inconsistent with the provisions of this Chapter, it shall communicate such finding to the Members concerned in order to secure promptly the adjustment of the agreement to bring it into conformity with the provisions of this Chapter.

2. Members shall transmit to the Organization appropriate information regarding any negotiations for the conclusion of an inter-governmental commodity agreement in which they are participating at the time they become Members of the Organization. If, after review, the Organization finds that any such negotiations are inconsistent with the provisions of this Chapter, it shall communicate such finding to the Members concerned in order to secure prompt action with regard to their participation in such negotiations. The Organization may waive the requirement of a study group or a commodity conference, if it finds it unnecessary in the light of the negotiations.

ARTICLE 69—TERRITORIAL APPLICATION

For the purposes of this Chapter, the terms "Member" and "non-Member" shall include the dependent territories of a Member and non-Member of the Organization respectively. If a Member or non-Member and its dependent territories form a group, of which one or more units are mainly interested in the export of a commodity and one or more in the import of the commodity, there may be either joint representation for all the territories within the group or, where the Member or non-Member so wishes, separate representation for the territories mainly interested in exportation and separate representation for the territories mainly interested in importation.

ARTICLE 70—EXCEPTIONS TO CHAPTER VI

1. The provisions of this Chapter shall not apply:

(*a*) to any bilateral inter-governmental agreement relating to the purchase and sale of a commodity falling under Section D of Chapter IV;

(*b*) to any inter-governmental commodity agreement involving no more than one exporting country and no more than one importing country and not covered by sub-paragraph (*a*) above; *Provided* that if, upon complaint by a non-participating Member, the Organization finds that the interests of that Member are seriously prejudiced by the agreement, the agreement shall become subject to such provisions of this Chapter as the Organization may prescribe;

(*c*) to those provisions of any inter-governmental commodity agreement which are necessary for the protection of public morals or of human, animal or plant life or health, provided that such agreement is not used to accomplish results inconsistent with the objectives of Chapter V or Chapter VI;

(*d*) to any inter-governmental agreement relating solely to the conservation of fisheries resources, migratory birds or wild animals, provided that such agreement is not used to accomplish results inconsistent with the objectives of this Chapter or the purpose and objectives set forth in Article 1 and is given full publicity in accordance with the provisions of paragraph 1 (*e*) of

Article 60; if the Organization finds, upon complaint by a non-participating Member, that the interests of that Member are seriously prejudiced by the agreement, the agreement shall become subject to such provisions of this Chapter as the Organization may prescribe.

2. The provisions of Articles 58 and 59 and of Section C of this Chapter shall not apply to inter-governmental commodity agreements found by the Organization to relate solely to the equitable distribution of commodities in short supply.

3. The provisions of Section C of this Chapter shall not apply to commodity control agreements found by the Organization to relate solely to the conservation of exhaustible natural resources.

CHAPTER VII—THE INTERNATIONAL TRADE ORGANIZATION

SECTION A—STRUCTURE AND FUNCTIONS

ARTICLE 71—MEMBERSHIP

1. The original Members of the Organization shall be:

(*a*) those States invited to the United Nations Conference on Trade and Employment whose governments accept this Charter, in accordance with the provisions of paragraph 1 of Article 103, by September 30, 1949 or, if the Charter shall not have entered into force by that date, those States whose governments agree to bring the Charter into force in accordance with the provisions of paragraph 2 (*b*) of Article 103;

(*b*) those separate customs territories invited to the United Nations Conference on Trade and Employment on whose behalf the competent Member accepts this Charter, in accordance with the provisions of Article 104, by September 30, 1949 or, if the Charter shall not have entered into force by that date, such separate customs territories which agree to bring the Charter into force in accordance with the provisions of paragraph 2 (*b*) of Article 103 and on whose behalf the competent Member accepts the Charter in accordance with the provisions of Article 104. If any of these customs territories shall have become fully responsible for the formal conduct of its diplomatic relations by the time it wishes to deposit an instrument of acceptance, it shall proceed in the manner set forth in sub-paragraph (*a*) of this paragraph.

2. Any other State whose membership has been approved by the Conference shall become a Member of the Organization upon its acceptance, in accordance with the provisions of paragraph 1 of Article 103, of the Charter as amended up to the date of such acceptance.

3. Any separate customs territory not invited to the United Nations Conference on Trade and Employment, proposed by the competent Member having responsibility for the formal conduct of its diplomatic relations and which is autonomous in the conduct of its external commercial relations and of the other matters provided for in this Charter and whose admission is approved by the Conference, shall become a Member upon acceptance of the Charter on its behalf by the competent Member in accordance with the provisions of Article 104 or, in the case of a territory in respect of which the Charter has already been accepted under that Article, upon such approval by the Conference after it has acquired such autonomy.

4. The Conference shall determine, by a two-thirds majority of the Members present and voting, the conditions upon which, in each individual case, membership rights and obligations shall be extended to:

(*a*) the Free Territory of Trieste;
(*b*) any Trust Territory administered by the United Nations; and
(*c*) any other special regime established by the United Nations.

5. The Conference, on application by the competent authorities, shall determine the conditions upon which rights and obligations under this Charter shall apply to such authorities in respect of territories under military occupation and shall determine the extent of such rights and obligations.

ARTICLE 72—FUNCTIONS

1. The Organization shall perform the functions attributed to it elsewhere in this Charter. In addition, the Organization shall have the following functions:

(*a*) to collect, analyze and publish information relating to international trade, including information relating to commercial policy, business practices, commodity problems and industrial and general economic development;

(*b*) to encourage and facilitate consultation among Members on all questions relating to the provisions of this Charter;

(*c*) to undertake studies, and, having due regard to the objectives of this Charter and the constitutional and legal systems of Members, make recommendations, and promote bilateral or multilateral agreements concerning measures designed

(i) to assure just and equitable treatment for foreign nationals and enterprises;

(ii) to expand the volume and to improve the bases of international trade, including measures designed to facilitate commercial arbitration and the avoidance of double taxation;

(iii) to carry out, on a regional or other basis, having due regard to the activities of existing regional or other inter-governmental organizations, the functions specified in paragraph 2 of Article 10;

(iv) to promote and encourage establishments for the technical training that is necessary for progressive industrial and economic development; and,

(v) generally, to achieve any of the objectives set forth in Article 1;

(*d*) in collaboration with the Economic and Social Council of the United Nations and with such inter-governmental organizations as may be appropriate, to undertake studies on the relationship between world prices of primary commodities and manufactured products, to consider and, where appropriate, to recommend international agreements on, measures designed to reduce progressively any unwarranted disparity in those prices;

(*e*) generally, to consult with and make recommendations to the Members and, as necessary, furnish advice and assistance to them regarding any matter relating to the operation of this Charter, and to take any other action necessary and appropriate to carry out the provisions of the Charter;

(*f*) to co-operate with the United Nations and other inter-governmental organizations in furthering the achievement of the economic and social objectives of the United Nations and the maintenance or restoration of international peace and security.

2. In the exercise of its functions the Organization shall have due regard to the economic circumstances of Members, to the factors affecting these circumstances and to the consequences of its determinations upon the interests of the Member or Members concerned.

ARTICLE 73—STRUCTURE

The Organization shall have a Conference, an Executive Board, Commissions as established under Article 82, and such other organs as may be required. There shall also be a Director-General and Staff.

Section B—The Conference

ARTICLE 74—COMPOSITION

1. The Conference shall consist of all the Members of the Organization.

2. Each Member shall have one representative in the Conference and may appoint alternates and advisers to its representative.

ARTICLE 75—VOTING

1. Each Member shall have one vote in the Conference.

2. Except as otherwise provided in this Charter, decisions of the Conference shall be taken by a majority of the Members present and voting; *Provided* that the rules of procedure of the Conference may permit a Member to request a second vote if the number of votes cast is less than half the number of the Members, in which case the decision reached on the second vote shall be final whether or not the total of the votes cast comprises more than half the number of the Members.

ARTICLE 76—SESSIONS, RULES OF PROCEDURE AND OFFICERS

1. The Conference shall meet at the seat of the Organization in regular annual session and in such special sessions as may be convoked by the Director-General at the request of the Executive Board or of one-third of the Members. In exceptional circumstances, the Executive Board may decide that the Conference shall be held at a place other than the seat of the Organization.

2. The Conference shall establish rules of procedure which may include rules appropriate for the carrying out of its functions during the intervals between its sessions. It shall annually elect its President and other officers.

ARTICLE 77—POWERS AND DUTIES

1. The powers and duties attributed to the Organization by this Charter and the final authority to determine the policies of the Organization shall be vested in the Conference.

2. The Conference may, by a vote of a majority of the Members, assign to the Executive Board any power or duty of the Organization except such specific powers and duties as are expressly conferred or imposed upon the Conference by this Charter.

3. In exceptional circumstances not elsewhere provided for in this Charter, the Conference may waive an obligation imposed upon a Member by the Charter; *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 Members. The Conference may also by such a vote define certain categories of exceptional circumstances to which other voting requirements shall apply for the waiver of obligations.

4. The Conference may prepare or sponsor agreements with respect to any matter within the scope of this Charter, and by a two-thirds majority of the Members present and voting, recommend such agreements for acceptance. Each Member shall within a period specified by the Conference, notify the Director-General of its acceptance or non-acceptance. In the case of non-acceptance, a statement of the reasons therefor shall be forwarded with the notification.

5. The Conference may make recommendations to inter-governmental organizations on any subject within the scope of this Charter.

6. The Conference shall approve the budget of the Organization and shall apportion the expenditures of the Organization among the Members in accordance with a scale of contributions to be fixed from time to time by the Conference following such principles as may be applied by the United Nations. If a maximum limit is established on the contribution of a single Member with respect to the budget of the United Nations, such limit shall also be applied with respect to contributions to the Organization.

7. The Conference shall determine the seat of the Organization and shall establish such branch offices as it may consider desirable.

SECTION C—THE EXECUTIVE BOARD

ARTICLE 78—COMPOSITION OF THE EXECUTIVE BOARD

1. The Executive Board shall consist of eighteen Members of the Organization selected by the Conference.

2. (*a*) The Executive Board shall be representative of the broad geographical areas to which the Members of the Organization belong.

(*b*) A customs union, as defined in paragraph 4 of Article 44, shall be considered eligible for selection as a member of the Executive Board on the same basis as a single Member of the Organization if all of the members of the customs union are Members of the Organization and if all its members desire to be represented as a unit.

(*c*) In selecting the members of the Executive Board, the Conference shall have regard to the objective of ensuring that the Board includes Members of chief economic importance, in the determination of which particular regard shall be paid to their shares in international trade, and that it is representative of the different types of economies or degrees of economic development to be found within the membership of the Organization.

3. (*a*) At intervals of three years the Conference shall determine, by a two-thirds majority of the Members present and voting, the eight Members of chief economic importance, in the determination of which particular regard shall be paid to their shares in international trade. The Members so determined shall be declared members of the Executive Board.

(*b*) The other members of the Executive Board shall be elected by the Conference by a two-thirds majority of the Members present and voting.

(*c*) If on two consecutive ballots no member is elected, the remainder of the election shall be decided by a majority of the Members present and voting.

4. Subject to the provisions of Annex L, the term of office of a member of the Executive Board shall be three years, and any vacancy in the membership of the Board may be filled by the Conference for the unexpired term of the vacancy.
5. The Conference shall establish rules for giving effect to this Article.

ARTICLE 79—VOTING

1. Each member of the Executive Board shall have one vote.
2. Decisions of the Executive Board shall be made by a majority of the votes cast.

ARTICLE 80—SESSIONS, RULES OF PROCEDURE AND OFFICERS

1. The Executive Board shall adopt rules of procedure, which shall include rules for the convening of its sessions, and which may include rules appropriate for the carrying out of its functions during the intervals between its sessions. The rules of procedure shall be subject to confirmation by the Conference.
2. The Executive Board shall annually elect its Chairman and other officers, who shall be eligible for re-election.
3. The Chairman of the Executive Board shall be entitled *ex officio* to participate, without the right to vote, in the deliberations of the Conference.
4. Any Member of the Organization which is not a member of the Executive Board shall be invited to participate in the discussion by the Board of any matter of particular and substantial concern to that Member and shall, for the purpose of such discussion, have all the rights of a member of the Board, except the right to vote.

ARTICLE 81—POWERS AND DUTIES

1. The Executive Board shall be responsible for the execution of the policies of the Organization and shall exercise the powers and perform the duties assigned to it by the Conference. It shall supervise the activities of the Commissions and shall take such action upon their recommendations as it may deem appropriate.
2. The Executive Board may make recommendations to the Conference, or to inter-governmental organizations, on any subject within the scope of this Charter.

SECTION D—THE COMMISSIONS

ARTICLE 82—ESTABLISHMENT AND FUNCTIONS

The Conference shall establish such Commissions as may be required for the performance of the functions of the Organization. The Commissions shall have such functions as the Conference may decide. They shall report to the Executive Board and shall perform such tasks as the Board may assign to them. They shall consult each other as necessary for the exercise of their functions.

ARTICLE 83—COMPOSITION AND RULES OF PROCEDURE

1. The Commissions shall be composed of persons whose appointment, unless the Conference decides otherwise, shall be made by the Executive Board. In all cases, these persons shall be qualified by training and experience to carry out the functions of the Commission to which they are appointed.
2. The number of members, which for each Commission shall normally not exceed seven, and the conditions of service of such members shall be determined in accordance with regulations prescribed by the Conference.
3. Each Commission shall elect a Chairman. It shall adopt rules of procedure which shall be subject to approval by the Executive Board.
4. The rules of procedure of the Conference and of the Executive Board shall provide as appropriate for the participation in their deliberations, without the right to vote, of the chairmen of Commissions.
5. The Organization shall arrange for representatives of the United Nations and of other inter-governmental organizations which are considered by the Organization to have a special competence in the field of activity of any of the Commissions, to participate in the work of such Commission.

SECTION E—THE DIRECTOR-GENERAL AND STAFF

ARTICLE 84—THE DIRECTOR-GENERAL

1. The chief administrative officer of the Organization shall be the Director-General. He shall be appointed by the Conference upon the recommendation of the Executive Board, and shall be subject to the general supervision of the Board.

The powers, duties, conditions of service and terms of office of the Director-General shall conform to regulations approved by the Conference.

2. The Director-General or his representative shall be entitled to participate, without the right to vote, in all meetings of any organ of the Organization.

3. The Director-General shall present to the Conference an annual report on the work of the Organization, and the annual budget estimates and financial statements of the Organization.

ARTICLE 85—THE STAFF

1. The Director-General, having first consulted with and having obtained the agreement of the Executive Board, shall have authority to appoint Deputy Directors-General in accordance with regulations approved by the Conference. The Director-General shall also appoint such additional members of the Staff as may be required and shall fix the duties and conditions of service of the members of the Staff, in accordance with regulations approved by the Conference.

2. The selection of the members of the Staff, including the appointment of the Deputy Directors-General, shall as far as possible be made on a wide geographical basis and with due regard to the various types of economy represented by Member countries. The paramount consideration in the selection of candidates and in determining the conditions of service of the Staff shall be the necessity of securing the highest standards of efficiency, competence, impartiality and integrity.

3. The regulations concerning the conditions of service of members of the Staff, such as those governing qualifications, salary, tenure and retirement, shall be fixed, so far as practicable, in conformity with those for members of the Secretariat of the United Nations and of specialized agencies.

SECTION F—OTHER ORGANIZATIONAL PROVISIONS

ARTICLE 86—RELATIONS WITH THE UNITED NATIONS

1. The Organization shall be brought into relationship with the United Nations as soon as practicable as one of the specialized agencies referred to in Article 57 of the Charter of the United Nations. This relationship shall be effected by agreement approved by the Conference.

2. Any such agreement shall, subject to the provisions of this Charter, provide for effective cooperation and the avoidance of unnecessary duplication in the activities of these organizations, and for co-operation in furthering the maintenance or restoration of international peace and security.

3. The Members recognize that the Organization should not attempt to take action which would involve passing judgment in any way on essentially political matters. Accordingly, and in order to avoid conflict of responsibility between the United Nations and the Organization with respect to such matters, any measure taken by a Member directly in connection with a political matter brought before the United Nations in accordance with the provisions of Chapters IV or VI of the United Nations Charter shall be deemed to fall within the scope of the United Nations, and shall not be subject to the provisions of this Charter.

4. No action, taken by a Member in pursuance of its obligations under the United Nations Charter for the maintenance or restoration of international peace and security, shall be deemed to conflict with the provisions of this Charter.

ARTICLE 87—RELATIONS WITH OTHER ORGANIZATIONS

1. The Organization shall make arrangements with other inter-governmental organizations, which have related responsibilities, to provide for effective co-operation and the avoidance of unnecessary duplication in the activities of these organizations. The Organization may for this purpose arrage for joint committees, reciprocal representation at meetings and establish such other working relationships as may be necessary.

2. The Organization may make suitable arrangements for consultation and co-operation with non-governmental organizations concerned with matters within the scope of this Charter.

3. Whenever the Conference and the competent authorities of any inter-governmental organization whose purposes and functions lie within the scope of this Charter deem it desirable

(*a*) to incorporate such inter-governmental organization into the Organization, or

(*b*) to transfer all or part of its functions and resources to the Organization, or

(*c*) to bring it under the supervision or authority of the Organization,

the Director-General, subject to the approval of the Conference, may enter into an appropriate agreement. The Members shall, in conformity with their international obligations, take the action necessary to give effect to any such agreement.

ARTICLE 88—INTERNATIONAL CHARACTER OF THE RESPONSIBILITIES OF THE DIRECTOR-GENERAL, STAFF AND MEMBERS OF COMMISSIONS

1. The responsibilities of the Director-General and of the members of the Staff shall be exclusively international in character. In the discharge of their duties, they shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials.

2. The provisions of paragraph 1 shall also apply to the members of the Commissions.

3. The Members shall respect the international character of the responsibilities of these persons and shall not seek to influence them in the discharge of their duties.

ARTICLE 89—INTERNATIONAL LEGAL STATUS OF THE ORGANIZATION

The Organization shall have legal personality and shall enjoy such legal capacity as may be necessary for the exercise of its functions.

ARTICLE 90—STATUS OF THE ORGANIZATION IN THE TERRITORY OF MEMBERS

1. The Organization shall enjoy in the territory of each of its Members such legal capacity, privileges and immunities as may be necessary for the exercise of its functions.

2. The representatives of Members and the officials of the Organization shall similarly enjoy such privileges and immunities as may be necessary for the independent exercise of their functions in connection with the Organization.

3. When the Organization has been brought into relationship with the United Nations as provided for in paragraph 1 of Article 86, the legal capacity of the Organization and the privileges and immunities provided for in the preceding paragraphs shall be defined by the General Convention on Privileges and Immunities of the Specialized Agencies, adopted by the General Assembly of the United Nations, as from time to time amended, and as supplemented by an annex relating to the International Trade Organization.

ARTICLE 91—CONTRIBUTIONS

Each Member shall contribute promptly to the Organization its share of the expenditure of the Organization as apportioned by the Conference. A Member which is in arrears in the payment of its contributions shall have no vote in the organs of the Organization, if the amount of its arrears equals or exceeds the amount of the contributions due from it in respect of the preceding two complete years. The Conference may, nevertheless, permit such a Member to vote, if it is satisfied that the failure to pay is due to circumstances beyond the control of the Member.

CHAPTER VIII—SETTLEMENT OF DIFFERENCES

ARTICLE 92—RELIANCE ON THE PROCEDURES OF THE CHARTER

1. The Members undertake that they will not have recourse, in relation to other Members and to the Organization, to any procedure other than the procedures envisaged in this Charter for complaints and the settlement of differences arising out of its operation.

2. The Members also undertake, without prejudice to any other international agreement, that they will not have recourse to unilateral economic measures of any kind contrary to the provisions of this Charter.

ARTICLE 93—CONSULTATION AND ARBITRATION

1. If any Member considers that any benefit accruing to it directly or indirectly, implicitly or explicitly, under any of the provisions of this Charter other than Article 1, is being nullified or impaired as a result of

(*a*) breach by a Member of an obligation under this Charter by action or failure to act, or

(*b*) the application by a Member of a measure not conflicting with the provisions of this Charter, or

(*c*) the existence of any other situation

the Member may, with a view to the satisfactory adjustment of the matter, make written representations or proposals to such other Member or Members as it considers to be concerned, and the Members receiving them shall give sympathetic consideration thereto.

2. The Members concerned may submit the matter arising under paragraph 1 to arbitration upon terms agreed between them; *Provided* that the decision of the arbitrator shall not be binding for any purpose upon the Organization or upon any Member other than the Members participating in the arbitration.

3. The Members concerned shall inform the Organization generally of the progress and outcome of any discussion, consultation or arbitration undertaken under this Charter.

ARTICLE 94—REFERENCE TO THE EXECUTIVE BOARD

1. Any matter arising under sub-paragraphs (*a*) or (*b*) of paragraph 1 of Article 93 which is not satisfactorily settled and any matter which arises under paragraph 1 (*c*) of Article 93 may be referred by any Member concerned to the Executive Board.

2. The Executive Board shall promptly investigate the matter and shall decide whether any nullification or impairment within the terms of paragraph 1 of Article 93 in fact exists. It shall then take such of the following steps as may be appropriate:

(*a*) decide that the matter does not call for any action;

(*b*) recommended further consultation to the Members concerned;

(*c*) refer the matter to arbitration upon such terms as may be agreed between the Executive Board and the Members concerned;

(*d*) in any matter arising under paragraph 1 (*a*) of Article 93, request the Member concerned to take such action as may be necessary for the Member to conform to the provisions of this Charter;

(*e*) in any matter arising under sub-paragraph (*b*) or (*c*) of paragraph 1 of Article 93, make such recommendations to Members as will best assist the Members concerned and contribute to a satisfactory adjustment.

3. If the Executive Board considers that action under sub-paragraph (*d*) and (*e*) of paragraph 2 is not likely to be effective in time to prevent serious injury, and that any nullification or impairment found to exist within the terms of paragraph 1 of Article 93 is sufficiently serious to justify such action, it may, subject to the provisions of paragraph 1 of Article 95, release the Member or Members affected from obligations or the grant of concessions to any other Member or Members under or pursuant to this Charter, to the extent and upon such conditions as it considers appropriate and compensatory, having regard to the benefit which has been nullified or impaired.

4. The Executive Board may, in the course of its investigation, consult with such Members or inter-governmental organizations upon such matters within the scope of this Charter as it deems appropriate. It may also consult any appropriate commission of the Organization on any matter arising under this Chapter.

5. The Executive Board may bring any matter, referred to it under this Article, before the Conference at any time during its consideration of the matter.

ARTICLE 95—REFERENCE TO THE CONFERENCE

1. The Executive Board shall, if requested to do so within thirty days by a Member concerned, refer to the Conference for review any action, decision or recommendation by the Executive Board under paragraphs 2 or 3 of Article 94. Unless such review has been asked for by a Member concerned, Members shall be entitled to act in accordance with any action, decision or recommendation of the Executive Board under paragraphs 2 or 3 of Article 94. The Conference shall confirm, modify or reverse such action, decision or recommendation referred to it under this paragraph.

2. Where a matter arising under this Chapter has been brought before the Conference by the Executive Board, the Conference shall follow the procedure set out in paragraph 2 of Article 94 for the Executive Board.

3. If the Conference considers that any nullification or impairment found to exist within the terms of paragraph 1 (*a*) of Article 93 is sufficiently serious to

justify such action, it may release the Member or Members affected from obligations or the grant of concessions to any other Member or Members under or pursuant to this Charter, to the extent and upon such conditions as it considers appropriate and compensatory, having regard to the benefit which has been nullified or impaired. If the Conference considers that any nullification or impairment found to exist within the terms of sub-paragraphs (*b*) or (*c*) of paragraph 1 of Article 93 is sufficiently serious to justify such action, it may similarly release a Member or Members to the extent and upon such conditions as will best assist the Members concerned and contribute to a satisfactory adjustment.

4. When any Member or Members, in accordance with the provisions of paragraph 3, suspend the performance of any obligation or the grant of any concession to another Member, the latter Member shall be free, not later than sixty days after such action is taken, or if an opinion has been requested from the International Court of Justice pursuant to the provisions of Article 96, after such opinion has been delivered, to give written notice of its withdrawal from the Organization. Such withdrawal shall become effective upon the expiration of sixty days from the day on which such notice is received by the Director-General.

ARTICLE 96—REFERENCE TO THE INTERNATIONAL COURT OF JUSTICE

1. The Organization may, in accordance with the arrangements made pursuant to paragraph 2 of Article 96 of the Charter of the United Nations, request from the International Court of Justice advisory opinions on legal questions arising within the scope of the activities of the Organization.

2. Any decision of the Conference under this Charter shall, at the instance of any Member whose interests are prejudiced by the decision, be subject to review by the International Court of Justice by means of a request, in appropriate form, for an advisory opinion pursuant to the Statute of the Court.

3. The request for an opinion shall be accompanied by a statement of the question upon which the opinion is required and by all documents likely to throw light upon the question. This statement shall be furnished by the Organization in accordance with the Statute of the Court and after consultation with the Members substantially interested.

4. Pending the delivery of the opinion of the Court, the decision of the Conference shall have full force and effect; *Provided* that the Conference shall suspend the operation of any such decision pending the delivery of the opinion where, in the view of the Conference, damage difficult to repair would otherwise be caused to a Member concerned.

5. The Organization shall consider itself bound by the opinion of the Court on any question referred by it to the Court. In so far as it does not accord with the opinion of the Court, the decision in question shall be modified.

ARTICLE 97—MISCELLANEOUS PROVISIONS

1. Nothing in this Chapter shall be construed to exclude other procedures provided for in this Charter for consultation and the settlement of differences arising out of its operation. The Organization may regard discussion, consultation or investigation undertaken under any other provisions of this Charter as fulfilling, either in whole or in part, any similar procedural requirement in this Chapter.

2. The Conference and the Executive Board shall establish such rules of procedure as may be necessary to carry out the provisions of this Chapter.

CHAPTER IX—GENERAL PROVISIONS

ARTICLE 98—RELATIONS WITH NON-MEMBERS

1. Nothing in this Charter shall preclude any Member from maintaining economic relations with non-Members.

2. The Members recognize that it would be inconsistent with the purpose of this Charter for a Member to seek any arrangements with non-Members for the purpose of obtaining for the trade of its country preferential treatment as compared with the treatment accorded to the trade of other Member countries, or so to conduct its trade with non-Member countries as to result in injury to other Member countries. Accordingly,

(*a*) no Member shall enter into any new arrangement with a non-Member which precludes the non-Member from according to other Member countries any benefit provided for by such arrangement;

(*b*) subject to the provisions of Chapter IV, no Member shall accord to the trade of any non-Member country treatment which, being more favourable than that which it accords to the trade of any other Member country, would injure the economic interests of a Member country.

3. Notwithstanding the provisions of paragraph 2, Members may enter into agreements with non-Members in accordance with the provisions of paragraph 3 of Article 15 or of paragraph 6 of Article 44.

4. Nothing in this Charter shall be interpreted to require a Member to accord to non-Member countries treatment as favourable as that which it accords to Member countries under the provisions of the Charter, and failure to accord such treatment shall not be regarded as inconsistent with the terms or the spirit of the Charter.

5. The Executive Board shall make periodic studies of general problems arising out of the commercial relations between Member and non-Member countries and, with a view to promoting the purpose of the Charter, may make recommendations to the Conference with respect to such relations. Any recommendation involving alterations in the provisions of this Article shall be dealt with in accordance with the provisions of Article 100.

ARTICLE 99—GENERAL EXCEPTIONS

1. Nothing in this Charter shall be construed

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

(*b*) to prevent a Member from taking, either singly or with other States, any action which it considers necessary for the protection of its essential security interests, where such action

(i) relates to fissionable materials or to the materials from which they are derived, or

(ii) relates to the traffic in arms, ammunition or implements of war, to traffic in other goods and materials carried on directly or indirectly for the purpose of supplying a military establishment of the Member or of any other country, or

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

(*c*) to prevent a Member from entering into or carrying out any intergovernmental agreement (or other agreement on behalf of a government for the purpose specified in this sub-paragraph) made by or for a military establishment for the purpose of meeting essential requirements of the national security of one or more of the participating countries; or

(*d*) to prevent action taken in accordance with the provisions of Annex M to this Charter.

2. Nothing in this Charter shall be construed to override

(*a*) any of the provisions of peace treaties or permanent settlements resulting from the Second World War which are or shall be in force and which are or shall be registered with the United Nations, or

(*b*) any of the provisions of instruments creating Trust Territories or any other special regimes established by the United Nations.

ARTICLE 100—AMENDMENTS

1. Any amendment to this Charter which does not alter the obligations of Members shall become effective upon approval by the Conference by a two-thirds majority of the Members.

2. Any amendment which alters the obligations of Members shall, after receiving the approval of the Conference by a two-thirds majority of the Members present and voting, become effective for the Members accepting the amendment upon the ninetieth day after two-thirds of the Members have notified the Director-General of their acceptance, and thereafter for each remaining Member upon acceptance by it. The Conference may, in its decision approving an amendment under this paragraph and by one and the same vote, determine that the amendment is of such a nature that the Members which do not accept it within a specified period after the amendment becomes effective shall be suspended from membership in the Organization; *Provided* that the Conference may, at any time, by a two-thirds majority of the Members present and voting, determine the conditions under which such suspension shall not apply with respect to any such Member.

3. A Member not accepting an amendment under paragraph 2 shall be free to withdraw from the Organization at any time after the amendment has become

effective; *Provided*, that the Director-General has received from such Member sixty days' written notice of withdrawal; and *provided further* that the withdrawal of any Member suspended under the provisions of paragraph 2 shall become effective upon the receipt by the Director-General of written notice of withdrawal.

4. The Conference shall, by a two-thirds majority of the Members present and voting, determine whether an amendment falls under paragraph 1 or paragraph 2, and shall establish rules with respect to the reinstatement of Members suspended under the provisions of paragraph 2, and any other rules required for carrying out the provisions of this Article.

5. The provisions of Chapter VIII may be amended within the limits and in accordance with the procedure set forth in Annex N.

ARTICLE 101—REVIEW OF THE CHARTER

1. The Conference shall carry out a general review of the provisions of this Charter at a special session to be convened in conjunction with the regular annual session nearest the end of the fifth year after the entry into force of the Charter.

2. At least one year before the special session referred to in paragraph 1, the Director-General shall invite the Members to submit any amendments or observations which they may wish to propose and shall circulate them for consideration by the Members.

3. Amendments resulting from such review shall become effective in accordance with the procedure set forth in Article 100.

ARTICLE 102—WITHDRAWAL AND TERMINATION

1. Without prejudice to any special provision in this Charter relating to withdrawal, any Member may withdraw from the Organization, either in respect of itself or of a separate customs territory on behalf of which it has accepted the Charter in accordance with the provisions of Article 104, at any time after three years from the day of the entry into force of the Charter.

2. A withdrawal under paragraph 1 shall become effective upon the expiration of six months from the day on which written notice of such withdrawal is received by the Director-General. The Director-General shall immediately notify all the Members of any notice of withdrawal which he may receive under this or other provisions of the Charter.

3. This Charter may be terminated at any time by agreement of three-fourths of the Members.

ARTICLE 103—ENTRY INTO FORCE AND REGISTRATION

1. The government of each State accepting this Chapter shall deposit an instrument of acceptance with the Secretary-General of the United Nations, who will inform all governments represented at the United Nations Conference on Trade and Employment and all Members of the United Nations not so represented of the date of deposit of each instrument of acceptance and of the day on which the Charter enters into force. Subject to the provisions of Annex O, after the entry into force of the Charter in accordance with the provisions of paragraph 2, each instrument of acceptance so deposited shall take effect on the sixtieth day following the day on which it is deposited.

2. (*a*) This Charter shall enter into force

(i) on the sixtieth day following the day on which a majority of the governments signing the Final Act of the United Nations Conference on Trade and Employment have deposited instruments of acceptance in accordance with the provisions of paragraph 1; or

(ii) if, at the end of one year from the date of signature of the said Final Act, it has not entered into force in accordance with the provisions of subparagraph (*a*) (i), then on the sixtieth day following the day on which the number of governments represented at the United Nations Conference on Trade and Employment which have deposited instruments of acceptance in accordance with the provisions of paragraph 1 shall reach twenty; *Provided* that if twenty such governments have deposited acceptances more than sixty days before the end of such year, it shall not enter into force until the end of that year.

(*b*) If this Charter shall not have entered into force by September 30, 1949, the Secretary-General of the United Nations shall invite those governments which have deposited instruments of acceptance to enter into consultation to determine whether and on what conditions they desire to bring the Charter into force.

3. Until September 30, 1949, no State or separate customs territory, on behalf of which the said Final Act has been signed, shall be deemed to be a non-Member for the purposes of Article 98.

4. The Secretary-General of the United Nations is authorized to register this Charter as soon as it enters into force.

ARTICLE 104—TERRITORIAL APPLICATION

1. Each government accepting this Charter does so in respect of its metropolitan territory and of the other territories for which it has international responsibility, except such separate customs territories as it shall notify to the Organization at the time of its own acceptance.

2. Any Member may at any time accept this Charter, in accordance with the provisions of paragraph 1 of Article 103, on behalf of any separate customs territory excepted under the provisions of paragraph 1.

3. Each Member shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Charter by the regional and local governments and authorities within its territory.

ARTICLE 105—ANNEXES

The Annexes to this Charter form an integral part thereof.

ARTICLE 106—DEPOSIT AND AUTHENTICITY OF TEXTS, TITLE AND DATE OF THE CHARTER

1. The original texts of this Charter in the official languages of the United Nations shall be deposited with the Secretary-General of the United Nations, who will furnish certified copies of the texts to all interested governments. Subject to the provisions of the Statute of the International Court of Justice, such texts shall be equally authoritative for the purposes of the interpretation of the Charter, and any discrepancy between texts shall be settled by the Conference.

2. The date of this Charter shall be March 24, 1948.

3. This Charter for an International Trade Organization shall be known as the Havana Charter.

ANNEX A

LIST OF TERRITORIES REFERRED TO IN PARAGRAPH 2 (A) OF ARTICLE 16

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 at 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 Members 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 preferences in force prior to such substitution.

The preferential arrangements referred to in paragraph 5 (*b*) of Article 23 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. Without prejudice to any action taken under paragraph 1 (*a*) (ix) of Article 45, negotiations shall be entered into when practicable among the countries substantially concerned or involved, in the manner provided for in Article 17, for the elimination of these arrangements or their replacement by tariff preferences. If after such negotiations have taken place a tariff preference is created or an existing tariff preference is increased to replace these arrangements

such action shall not be considered to contravene the provisions of Article 16 or Article 17.

The film hire tax in force in New Zealand on April 10, 1947 shall, for the purpose of this Charter, be treated as a customs duty falling under Articles 16 and 17. The renters' film quota in force in New Zealand on April 10, 1947, shall for the purposes of this Charter be treated as a screen quota falling under Article 19.

The Dominions of India and Pakistan have not been mentioned separately in the above list since they had not come into existence as such on the base date of April 10, 1947.

ANNEX B

LIST OF TERRITORIES OF THE FRENCH UNION REFERRED TO IN PARAGRAPH 2 (B) OF ARTICLE 16

France
French Equatorial Africa (Treaty Basin of the Congo* and other territories)
French West Africa
Cameroons under French Mandate*
French Somali Coast and Dependencies
French Establishments in India*
French Establishments in Oceania
French Establishments in the Condominium of the New Hebrides*
Guadeloupe and Dependencies
French Guiana
Indo-China
Madagascar and Dependencies
Morocco (French zone)*
Martinique
New Caledonia and Dependencies
Reunion
Saint-Pierre and Miquelon
Togo under French Mandate*
Tunisia

ANNEX C

LIST OF TERRITORIES OF THE CUSTOMS UNION OF BELGIUM, LUXEMBOURG AND THE NETHERLANDS REFERRED TO IN PARAGRAPH 2 (B) OF ARTICLE 16

The Economic Union of Belgium and Luxembourg
Belgian Congo
Ruanda Urundi
The Netherlands
Netherlands Indies
Surinam
Curaçao
(For imports into the metropolitan territories of the Customs Union.)

ANNEX D

LIST OF TERRITORIES OF THE UNITED STATES OF AMERICA REFERRED TO IN PARAGRAPH 2 (B) OF ARTICLE 16

United States of America (customs territory)
Dependent territories of the United States of America

ANNEX E

LIST OF PORTUGUESE TERRITORIES REFERRED TO IN PARAGRAPH 2 (B) OF ARTICLE 16

Portugal and the Archipelagoes of Madeira and the Azores
Archipelago of Cape Verde
Guinea
St. Tome and Principe and Dependencies
S. Joao Batista de Ajuda
Cabinda
Angola
Mozambique
State of India and Dependencies
Macao and Dependencies
Timor and Dependencies

*For imports into Metropolitan France and territories of the French Union.

ANNEX F

LIST OF TERRITORIES COVERED BY PREFERENTIAL ARRANGEMENTS BETWEEN CHILE AND NEIGHBOURING COUNTRIES REFERRED TO IN PARAGRAPH 2 (E) OF ARTICLE 16

Preferences in force exclusively between, on the one hand, Chile
and, on the other hand,
1. Argentina
2. Bolivia
3. Peru,
respectively.

ANNEX G

LIST OF TERRITORIES COVERED BY PREFERENTIAL ARRANGEMENTS BETWEEN THE SYRO-LEBANESE CUSTOMS UNION AND NEIGHBOURING COUNTRIES REFERRED TO IN PARAGRAPH 2 (E) OF ARTICLE 16

Preferences in force exclusively between, on the one hand,
The Syro-Lebanese Customs Union and, on the other hand,
1. Palestine
2. Transjordan,
respectively.

ANNEX H

LIST OF TERRITORIES COVERED BY PREFERENTIAL ARRANGEMENTS AMONG COLOMBIA, ECUADOR AND VENEZUELA REFERRED TO IN PARAGRAPH 2 (E) OF ARTICLE 16

Preferences in force exclusively between two or more of the following countries:
Colombia
Ecuador
Venezuela

Notwithstanding the provisions of Article 16, Venezuela may provisionally maintain the special surcharges which on November 21, 1947, were levied on products imported via certain territories: *Provided* that such surcharges shall not be increased above the level in effect on that date and shall be eliminated not later than five years from the date of this Charter.

ANNEX I

LIST OF TERRITORIES COVERED BY PREFERENTIAL ARRANGEMENTS AMONG THE REPUBLICS OF CENTRAL AMERICA REFERRED TO IN PARAGRAPH 2 (*e*) OF ARTICLE 16

Preferences in force exclusively between two or more of the following countries:
Costa Rica
El Salvador
Guatemala
Honduras
Nicaragua

ANNEX J

LIST OF TERRITORIES COVERED BY PREFERENTIAL ARRANGEMENTS BETWEEN ARGENTINA AND NEIGHBOURING COUNTRIES REFERRED TO IN PARAGRAPH 2 (*e*) OF ARTICLE 16

Preferences in force exclusively between, on the one hand, Argentina
and, on the other hand,
1. Bolivia
2. Chile
3. Paraguay,
respectively.

ANNEX K

EXCEPTIONS TO THE RULE OF NON-DISCRIMINATION

(Applicable to Members who so elect, in accordance with paragraph 1 (*d*) of Article 23, in lieu of paragraphs 1 (*b*) and 1 (*c*) of Article 23.)

1. (*a*) A Member applying import restrictions under Article 21 may relax such restrictions in a manner which departs from the provisions of Article 22 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 paragraphs 3 (*a*) and 3 (*b*)

of Article 21 if its restrictions were fully consistent with the provisions of Article 22; *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 Member countries, and that any excess of such price levels for products so imported is progressively reduced over a reasonable period;

(ii) the Member taking such action does not do so as part of any arrangement by which the gold or convertible currency which the Member currently receives directly or indirectly from its exports to other Members 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 Member, including interests under Articles 3 and 9.

(*b*) Any Member taking action under this paragraph shall observe the principles of sub-paragraph (*a*). A Member shall desist from transactions which prove to be inconsistent with that sub-paragraph but the Member 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.

2. Any Member taking action under paragraph 1 of this Annex shall keep the Organization regularly informed regarding such action and shall provide such available relevant information as the Organization may request.

3. If at any time the Organization finds that import restrictions are being applied by a Member in a discriminatory manner inconsistent with the exceptions provided for under paragraph 1 of this Annex, the Member shall, within sixty days remove the discrimination or modify it as specified by the Organization; *Provided* that any action under paragraph 1 of this Annex, to the extent that it has been approved by the Organization at the request of a Member under a procedure analogous to that of paragraph 5 (*c*) of Article 21, shall not be open to challenge under this paragraph or under paragraph 5 (*d*) of Article 21 on the ground that it is inconsistent with the provisions of Article 22.

ANNEX L

RELATING TO ARTICLE 78

SELECTION OF THE MEMBERS OF THE FIRST EXECUTIVE BOARD

To facilitate the work of the Conference at its first session, the following rules shall apply with respect to the selection of the members of the first Executive Board under the provisions of Article 78:

1. Six seats on the Board shall be filled under sub-paragraphs (*a*) and (*b*) of paragraph 3 of Article 78 by Member countries of the Western Hemisphere.* If five or more countries of the Western Hemisphere, eligible for election under paragraph 3 (*b*) of Article 78, have not become Members of the Organization at the time of the election, only three seats shall be filled under paragraph 3 (*b*).

If ten or more of the countries of the Western Hemisphere, eligible for election under paragraph 3 (*b*), have not become Members of the Organization at the time of the election, only two seats shall be filled under paragraph 3 (*b*). The seat or seats thus unoccupied shall not be filled unless the Conference otherwise decides by a two-third majority of the Members presenting and voting.

2. In order to ensure a selection in accordance with the provisions of paragraph 3 (*a*) of Article 78, the following countries and customs unions shall be deemed to fulfil the conditions set out therein:

(*a*) the two countries in the Western Hemisphere and the three countries or customs unions in Europe with the largest external trade, which participated in the Havana Conference; and

(*b*)in view of their potential importance in international trade, the three countries with the largest population in the world.

Should any of these countries, including any country participating in a customs union, not be a Member of the Organization at the time of the election, the Conference shall review the situation; however, the unoccupied seat or seats shall not be filled, unless the Conference otherwise decides by a two-thirds majority of the Members present and voting.

3. In the election of members of the Executive Board under the provisions of paragraph 3 (*b*) of Article 78, the Conference shall have due regard to the provisions of paragraph 2 of that Article and to the fact that certain relationships

*That is, North, Central and South America.

existing among a geographical group of countries may in certain cases give such a group a distinctive and unified character.

4. The members selected under paragraph 3 (*a*) of Article 78 shall serve for a term of three years. Of the members elected under paragraph 3 (*b*), half, as determined by lot, shall serve for a term of two years, and the other half for a term of four years. However, if an uneven number of Members has been elected, the Conference shall determine the number to serve for two and for four years respectively.

ANNEX M

REFERRED TO IN PARAGRAPH 1 (D) OF ARTICLE 99

SPECIAL PROVISIONS REGARDING INDIA AND PAKISTAN

In view of the special circumstances arising out of the establishment as independent States of India and Pakistan, which have long constituted an economic unit, the provisions of his Charter shall not prevent the two countries from entering into special interim agreements with respect to the trade between them, pending the establishment of their reciprocal trade relations on a definitive basis. When these relations have been established, measures adopted by these countries in order to carry out definitive agreements with respect to their reciprocal trade relations, may depart from particular provisions of the Charter, provided that such measures are in general consistent with the objectives of the Charter.

ANNEX N

REFERRED TO IN PARAGRAPH 5 OF ARTICLE 100

SPECIAL AMENDMENT OF CHAPTER VIII

Any amendment to the provisions of Chapter VIII which may be recommended by the Interim Commission for the International Trade Organization after consultation with the International Court of Justice and which relates to review by the Court of matters which arise out of the Charter but which are not already covered in Chapter VIII, shall become effective upon approval by the Conference, at its first regular session, by a vote of a majority of the Members; *Provided* that such amendment shall not provide for review by the Court of any economic or financial fact as established by or through the Organization; and *Provided further* that such amendment shall not affect the obligation of Members to accept the advisory opinion of the Court as binding on the Organization upon the points covered by such opinion; and *Provided further* that, if such amendment alters the obligations of Members, any Member which does not accept the amendment may withdraw from the Organization upon the expiration of sixty days from the day on which written notice of such withdrawal is received by the Director-General.

ANNEX O

REFERRED TO IN PARAGRAPH 1 OF ARTICLE 103

ACCEPTANCES WITHIN SIXTY DAYS OF THE FIRST REGULAR SESSION

For the purpose of the first regular session of the Conference, any government which has deposited an instrument of acceptance in accordance with the provisions of paragraph 1 of Article 103 prior to the first day of the session, shall have the same right to participate in the Conference as a Member.

ANNEX P

INTERPRETATIVE NOTES

AD ARTICLE 13

Paragraphs 7 (a) (ii) and (iii)

The word "processing", as used in these sub-paragraphs, means the transformation of a primary commodity or of a by-product of such transformation into semi-finished or finished goods but does not refer to highly developed industrial processes.

AD ARTICLE 15

Paragraph 1

The special circumstances referred to in paragraph 1 are those set forth in Article 15.

Paragraph 4 (a)

The Organization need not interpret the term "economic region" to require close geographical proximity if it is satisfied that a sufficient degree of economic integration exists between the countries concerned.

Paragraph 6 (d)

The words "the prospective parties to a regional preferential agreement have, prior to November 21, 1947, obtained from countries representing at least two-thirds of their import trade the right to depart from most-favoured-nation treatment in the cases envisaged in the agreement" cover rights to conclude preferential agreements which may have been recognized in respect of mandated territories which became independent prior to November 21, 1947, in so far as these rights have not been specifically denounced before that date.

AD ARTICLE 16

Note 1

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 1.50 francs per kilogram, the margin of preference would be 0.50 francs per kilogram.

Note 2

The following kinds of customs action, taken in accordance with established uniform procedures, would not be contrary to the binding of margins of preference under paragraph 4:

(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 17

An internal tax (other than a general tax uniformly applicable to a considerable number of products) which is applied to a product not produced domestically in substantial quantities shall be treated as a customs duty under Article 17 in any case in which a tariff concession on the product would not be of substantial value unless accompanied by a binding or a reduction of the tax.

Paragraph 2 (d)

In the event of the devaluation of a Member's currency, or of a rise in prices, the effects of such devaluation or rise in prices would be a matter for consideration during negotiations in order to determine, first, the change, if any, in the protective incidence of the specific duties of the Member concerned and, secondly, whether the binding of such specific duties represents in fact a concession equivalent in value to the substantial reduction of high duties or the elimination of tariff preferences.

AD ARTICLE 18

Any internal tax or other internal charge, or any law, regulation or requirement of the kind referred to in paragraph 1 which applies to an imported product and to the like domestic product and is collected or enforced in the case of the imported product at the time or point of importation, is nevertheless to be regarded as an internal tax or other internal charge, or a law, regulation or requirement of the kind referred to in paragraph 1, and is accordingly subject to the provisions of Article 18.

Paragraph 1

The application of paragraph 1 to internal taxes imposed by local governments and authorities within the territory of a Member is subject to the provisions of paragraph 3 of Article 104. The term "reasonable measures" in the last-mentioned paragraph would not require, for example, the repeal of existing national legislation authorizing local governments to impose internal taxes which, although technically inconsistent with the letter of Article 18, are not in fact inconsistent with its spirit, if such repeal would result in a serious financial hardship for the local governments or authorities concerned. With regard to taxation by local governments or authorities which is inconsistent with both the letter and spirit of Article 18, the term "reasonable measures" would permit a Member to eliminate the inconsistent taxation gradually over a transition period, if abrupt action would create serious administrative and financial difficulties.

Paragraph 2

A tax conforming to the requirements of the first sentence of paragraph 2 would be considered to be inconsistent with the provisions of the second sentence only in cases where competition was involved between, on the one hand, the taxed product and on the other hand, a directly competitive or substitutable product which was not similarly taxed.

Paragraph 5

Regulations consistent with the provisions of the first sentence of paragraph 5 shall not be considered to be contrary to the provisions of the second sentence in any case in which all of the products subject to the regulations are produced domestically in substantial quantities. A regulation cannot be justified as being consistent with the provisions of the second sentence on the ground that the proportion or amount allocated to each of the products which are the subject of the regulation constitutes an equitable relationship between imported and domestic products.

AD ARTICLE 20

Paragraph 2 (a)

In the case of products which are basic to diet in the exporting country and which are subject to alternate annual shortages and surpluses, the provisions of paragraph 2 (*a*) do not preclude such export prohibitions or restrictions as are necessary to maintain from year to year domestic stocks sufficient to avoid critical shortages.

Paragraph 2 (c)

The expression "agricultural and fisheries product, imported in any form" means the product in the form in which it is originally sold by its producer and such processed forms of the product as are so closely related to the original product as regards utilization that their unrestricted importation would make the restriction on the original product ineffective.

Paragraph 3 (b)

The provisions for prior consultation would not prevent a Member which had given other Members a reasonable period of time for such consultation from introducing the restrictions at the date intended. It is recognized that, with regard to import restrictions applied under paragraph 2 (*c*) (ii), the period of advance notice provided would in some cases necessarily be relatively short.

Paragraph 3 (d)

The term "special factors" in paragraph 3 (*d*) includes among other factors changes in relative productive efficiency as between domestic and foreign producers which may have occurred since the representative period.

AD ARTICLE 21

With regard to the special problems that might be created for Members 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 text of Article 21, together with the provision for export controls in certain parts of this Charter, for example, in Article 45, fully meet the position of these economies.

AD ARTICLE 22

Paragraphs 2 (d) and 4

The term "special factors" as used in Article 22 includes among other factors the following changes, as between the various foreign producers, which may have occurred since the representative period:

1. changes in relative productive efficiency;
2. the existence of new or additional ability to export; and
3. reduced ability to export.

Paragraph 3

The first sentence of paragraph 3 (*b*) is to be understood as requiring the Member in all cases to give, not later than the beginning of the relevant period, public notice of any quota fixed for a specified future period, but as permitting a Member, which for urgent balance-of-payments reasons is under the necessity of changing the quota within the course of a specified period, to select the time of its giving public notice of the change. This in no way affects the obligation of a Member under the provisions of paragraph 3 (*a*), where applicable.

AD ARTICLE 23

Paragraph 1 (g)

The provisions of paragraph 1 (*g*) shall not authorize the Organization to require that the procedure of consultation be followed for individual transactions unless the transaction is of so large a scope as to constitute an act of general policy. In the event, the Organization shall, if the Member so requests, consider the transaction, not individually, but in relation to the Member's policy regarding imports of the product in question taken as a whole.

Paragraph 2

One of the situations contemplated in paragraph 2 is that of a Member holding balances acquired as a result of current transactions which it finds itself unable to use without a measure of discrimination.

AD ARTICLE 24

Paragraph 8

For example, a Member 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 Fund would not thereby be deemed to contravene the provisions of Articles 20 or 22. Another example would be that of a Member 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 29

Paragraph 1

Note 1

Different prices for sales and purchases of products in different markets are not precluded by the provisions of Article 29, provided that such different prices are charged or paid for commercial reasons, having regard to differing conditions, including supply and demand, in such markets.

Note 2

Sub-paragraphs (*a*) and (*b*) of paragraph 1 shall not be construed as applying to the trading activities of enterprises to which a Member has granted licenses or other special privileges

(*a*) solely to ensure standards of quality and efficiency in the conduct of its external trade; or

(*b*) for the exploitation of its natural resources;

provided that the Member does not thereby establish or exercise effective control or direction of the trading activities of the enterprises in question, or create a monopoly whose trading activities are subject to effective governmental control or direction.

AD ARTICLE 31

Paragraphs 2 and 4

The maximum import duty referred to in paragraphs 2 and 4 would cover the margin which has been negotiated or which has been published or notified to the

Organization, whether or not collected, wholly or in part, at the custom house as an ordinary customs duty.

Paragraph 4

With reference to the second proviso, the method and degree of adjustment to be permitted in the case of a primary commodity which is the subject of a domestic price stabilization arrangement should normally be a matter for agreement at the time of the negotiations under paragraph 2 (*a*).

AD ARTICLE 33

Paragraph 1

The assembly of vehicles and mobile machinery arriving in a knocked-down condition or the disassembly (or disassembly and subsequent reassembly) of bulky articles shall not be held to render the passage of such goods outside the scope of "traffic in transit," provided that any such operation is undertaken solely for convenience of transport.

Paragraphs 3, 4, and 5

The word "charges" as used in the English text of paragraphs 3, 4, and 5 shall not be deemed to include transportation charges.

Paragraph 6

If, as a result of negotiations in accordance with paragraph 6, a Member grants to a country which has no direct access to the sea more ample facilities than those already provided for in other paragraphs of Article 33, such special facilities may be limited to the land-locked country concerned unless the Organization finds, on the complaint of any other Member, that the withholding of the special facilities from the complaining Member contravenes the most-favoured-nation provisions of this Charter.

AD ARTICLE 34

Paragraph 1

Hidden dumping by associated houses (that is, the 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 with respect to which the margin of dumping may be calculated on the basis of the price at which the goods are resold by the importer.

Paragraphs 2 and 3

Note 1

As in many other cases in customs administration, a Member may require reasonable security (bond or cash deposit) for the payment of antidumping or countervailing duty pending final determination of the facts in any case of suspected dumping or subsidization.

Note 2

Multiple currency practices can in certain circumstances constitute a subsidy to exports which may be met by countervailing duties under paragraph 3 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 2. By "multiple currency practices" is meant practices by governments or sanctioned by governments.

AD ARTICLE 35

Paragraph 3

Note 1

It would be in conformity with Article 35 to presume that "actual value" may be represented by the invoice price (or in the case of government contracts in respect of primary products, the contract price), plus any non-included charges for legitimate costs which are proper elements of "actual value" and plus any abnormal discount, or any reduction from the ordinary competitive price.

Note 2

If on the date of this Charter a Member has in force a system under which ad valorem duties are levied on the basis of fixed values, the provisions of paragraph 3 of Article 35 shall not apply:

1. in the case of values not subject to periodical revision in regard to a particular product, as long as the value established for that product remains unchanged;

2. in the case of values subject to periodical revision, on condition that the revision is based on the average "actual value" established by reference to an immediately preceding period of not more than twelve months and that such revision is made at any time at the request of the parties concerned or of Members. The revision shall apply to the importation or importations in respect of which the specific request for revision was made, and the revised value so established shall remain in force pending further revision.

Note 3

It would be in conformity with paragraph 3 (*b*) for a Member 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.

Note 4

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

Note 5

The wording of sub-paragraphs (*a*) and (*b*) permits a Member 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.

Paragraph 5

If compliance with the provisions of paragraph 5 would result in decreases in amounts of duty payable on products with respect to which the rates of duty have been bound by an international agreement, the term "at the earliest practicable date" in paragraph 2 allows the Member concerned a reasonable time to obtain adjustment of the agreement.

AD ARTICLE 36

Paragraph 3

While Article 36 does not cover the use of multiple rates of exchange as such, paragraphs 1 and 3 condemn the use of exchange taxes or fees as a device for implementing multiple currency practices; if, however, a Member is using multiple currency exchange fees for balance-of-payment reasons not inconsistently with the Articles of Agreement 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 40

It is understood that any suspension, withdrawal or modification under paragraphs 1 (*a*), 1 (*b*) and 3 (*b*) must not discriminate against imports from any Member country, and that such action should avoid, to the fullest extent possible, injury to other supplying Member countries.

AD ARTICLE 41

The provisions for consultation require Members subject to the exceptions specifically set forth in this Charter, to supply to other Members, upon request, such information as will enable a full and fair appraisal of the matters which are the subject of such consultation, including the operation of sanitary laws and regulations for the protection of human, animal or plant life or health, and other matters affecting the application of Chapter IV.

AD ARTICLE 44

Paragraph 5

It is understood that the provisions of Article 16 would require that, when a product which has been imported into the territory of a member of a customs union or free-trade area at a preferential rate of duty is re-exported to the territory of another member of such union or area, the latter member should collect a duty equal to the difference between the duty already paid and the most-favoured-nation rate.

AD ARTICLE 53

The provisions of this Article shall not apply to matters relating to shipping services which are subject to the Convention of the Inter-governmental Maritime Consultative Organization.

AD ARTICLE 86

Paragraph 3

Note 1

If any Member raises the question whether a measure is in fact taken directly in connection with a political matter brought before the United Nations in accordance with the provisions of Chapters IV or VI of the United Nations Charter, the responsibility for making a determination on the question shall rest with the Organization. If, however, political issues beyond the competence of the Organization are involved in making such a determination, the question shall be deemed to fall within the scope of the United Nations.

Note 2

If a Member which has no direct political concern in a matter brought before the United Nations considers that a measure taken directly in connection therewith and falling within the scope of paragraph 3 of Article 86 constitutes a nullification or impairment within the terms of paragraph 1 of Article 93, it shall seek redress only by recourse to the procedures set forth in Chapter VIII of this Charter.

AD ARTICLE 93

Nothing in this Article shall be construed to prejudice or prevent the operation of the provisions of paragraph 1 of Article 60 regarding the treatment to be accorded to non-participating countries under the terms of a commodity control agreement which conforms to the requirements of Chapter VI.

AD ARTICLE 104

Note 1

In the case of a condominium, where the codomini are Members of the Organization, they may, if they so desire and agree, jointly accept this Charter in respect of the condominium.

Note 2

Nothing in this Article shall be construed as prejudicing the rights which may have been or may be invoked by States in connection with territorial questions or disputes concerning territorial sovereignty.

AD ANNEX K

It is understood that the fact that a Member is operating under the provisions of paragraph 1 (*b*) (i) of Article 45 does not preclude that Member from operation under this Annex, but that the provisions of Article 23 (including this Annex) do not in any way limit the rights of Members under paragraph 1 (*b*) (i) of Article 45.

RESOLUTIONS ADOPTED BY THE CONFERENCE

Resolution Establishing an Interim Commission for the International Trade Organization

The United Nations Conference on Trade and Employment

Having prepared the Havana Charter for an International Trade Organization (hereinafter referred to as "the Charter" and "the Organization" respectively),

Considering that pending the establishment of the Organization certain interim functions should be performed,

Hereby resolves to establish an Interim Commission for the International Trade Organization (hereinafter called "the Commission") consisting of the governments the representatives of which have approved this resolution and which are entitled to original membership of the Organization under Article 71 of the Charter. The terms of reference and structure of the Commission are set out in the Annex to this resolution which forms an integral part thereof.

The following delegations approved the resolution establishing the Interim Commission:

Afghanistan	Egypt	Nicaragua
Argentina	El Salvador	Norway
Australia	France	Pakistan
Austria	Greece	Panama
Belgium	Guatemala	Peru
Brazil	Haiti	Philippines
Burma	India	Poland
Canada	Republic of Indonesia	Southern Rhodesia
Ceylon	Iran	Sweden
Chile	Iraq	Syria
China	Italy	Transjordan
Colombia	Lebanon	Turkey
Costa Rica	Liberia	South Africa
Cuba	Luxembourg	United Kingdom
Czechoslovakia	Mexico	United States
Denmark	Netherlands	Uruguay
Dominican Republic	New Zealand	Venezuela
Ecuador		

ANNEX

1. The Commission shall elect an Executive Committee of eighteen members to exercise any or all of its functions as the Commission may determine on electing the Committee.

2. The Commission shall have the following functions:

(*a*) to convoke the first regular session of the Conference of the Organization (hereinafter referred to as "the Conference") not less than four months and, as far as practicable, not more than six months after the receipt of the last acceptance needed to bring the Charter into force;

(*b*) to submit the provisional agenda for the first regular session of the Conference, together with documents and recommendations relating to all matters upon this agenda, including:

(i) proposals as to the programme and budget for the first year of the Organization;

(ii) studies regarding selection of headquarters of the Organization;

(iii) draft financial and staff regulations.

(*c*) to prepare, in consultation with the United Nations, a draft agreement of relationship as contemplated in paragraph 1 of Article 86 of the Charter for consideration by the first regular session of the Conference;

(*d*) to prepare, in consultation with inter-governmental organizations other than the United Nations, for presentation to the first regular session of the Conference, documents and recommendations regarding the implementation of the provisions of paragraphs 1 and 3 of Article 87 of the Charter;

(*e*) to prepare, in consultation with non-governmental organizations, for presentation to the first regular session of the Conference recommendations regarding the implementation of the provisions of paragraph 2 of Article 87 of the Charter;

(*f*) to prepare, with a view to recommendation by the Economic and Social Council to the first regular session of the Conference, the Annex referred to in paragraph 3 of Article 90 of the Charter;

(*g*) to carry out the functions and responsibilities referred to in the following documents of the United Nations Conference on Trade and Employment:

1. Paragraph 2 of the Final Act of the United Nations Conference on Trade and Employment (to which the present resolution is annexed).

2. The Resolution of the Conference regarding the relation of the International Trade Organization and the International Court of Justice (annexed to the Final Act).

3. The Resolution of the Conference relating to Economic Development and Reconstruction (annexed to the Final Act).

4. The report of Sub-committee G of the Third Committee on the Proposal made by the Delegation of Switzerland (E/CONF.2/C.3/78) together with the sections relating to that matter in the Report of the Third Committee (E/CONF.2/70).

(*h*) to enter into consultations with the Secretary-General of the United Nations regarding the expenses incurred by the Preparatory Committee of the United Nations Conference on Trade and Employment and by that

Conference and, in the light of such consultations, to present a report to the first regular session of the Conference;

(*i*) generally to perform such other functions as may be ancillary and necessary to the effective carrving out of the provisions of this annex.

3. The Commission shall elect an Executive Secretary who shall be its chief administrative officer. The Executive Secretary shall appoint the staff of the Commission observing, as far as possible, the principles of paragraph 2 of Article 85 of the Charter and using, as he considers desirable, such assistance as may be extended to him by the Secretary-General of the United Nations. The Executive Secretary shall also perform such other functions and duties as the Commission may determine.

4. The Commission shall approve the budget estimates for the operation of the Commission. The Executive Secretary shall prepare the draft of such estimates. The expenses of the Commission shall be met from funds provided by the United Nations and for this purpose the Commission shall make the necessary arrangements with the Secretary-General of the United Nations for the advance of such funds and for their reimbursement. Should these funds be insufficient, the Commission may accept advances from Governments. Such advances from Governments may be set off against the contributions of the Governments concerned to the Organization.

5. Arrangements may be made with the Secretary-General of the United Nations regarding the provision of such personnel as may be required to carry on the work of the Interim Co-ordinating Committee for International Commodity Arrangements.

6. The Executive Committee shall hold its first meeting in Havana immediately after its establishment. Its subsequent meetings shall be held in Geneva unless it decides otherwise.

7. The Executive Committee shall submit a report of the activities of the Commission to the first regular session of the Conference.

8. The benefit of the privileges and immunities provided in the Convention on Privileges and Immunities of the Specialized Agencies adopted by the General Assembly of the United Nations shall, as far as possible, be extended to and in connection with the Commission.

9. The Commission shall cease to exist upon the appointment of the Director-General of the Organization, at which time the property and records of the Commission shall be transferred to the Organization.

Resolution Concerning Relation of the International Trade Organization and the International Court of Justice

The United Nations Conference on Trade and Employment

Having considered the relation of the International Trade Organization and the International Court of Justice; and

Having provided in Chapter VIII of the Charter, procedures for review by the International Court of legal questions arising out of decisions and recommendations of the Organization,

Resolves that the Interim Commission of the International Trade Organization, through such means as may be appropriate, shall consult with appropriate officials of the International Court or with the Court itself, and after such consultation report to the first regular session of the Conference of the International Trade Organization upon the questions of:

(*a*) whether such procedures need to be changed to ensure that decisions of the Court on matters referred to it by the Organization should, with respect to the Organization, have the nature of a judgment; and

(*b*) whether an amendment should be presented to the Conference pursuant to and in accordance with the provisions of the annex to Article 100 of the Charter.

Resolution Concerning the Interim Co-ordinating Committee for International Commodity Arrangements

The United Nations Conference on Trade and Employment

Taking note of the resolution adopted by the Economic and Social Council on March 28, 1947, establishing an Interim Co-ordinating Committee for International Commodity Arrangements with a chairman representing the Preparatory Committee of the United Nations Conference on Trade and Employment;

Noting that, with the commencement of the United Nations Conference on Trade and Employment on November 21, 1947, the Preparatory Committee

ceased to exist, and that an interim commission is expected to be established at the conclusion of the Conference; and

RECOGNIZING that it is desirable to avoid any interruption of the interim arrangements for coordinating action in this field; accordingly

RECOMMENDS that the Economic and Social Council amend the composition of the Interim Co-ordinating Committee for International Commodity Arrangements to provide that the Chairman of that Committee be nominated by the Interim Commission for the International Trade Organization or, in the event that an interim commission is not established, by such other body as the United Nations Conference on Trade and Employment may designate.

RESOLUTION TO THE ECONOMIC AND SOCIAL COUNCIL RELATING TO EMPLOYMENT

The United Nations Conference on Trade and Employment

Having recognized in drawing up the Charter for an International Trade Organization that future prosperity and peace must be founded on full and productive employment and large and steadily growing effective demand which, although primarily dependent upon internal measures taken by individual countries, also require consultation and concerted action as well as assistance from inter-governmental agencies;

Recognizing that different measures may be appropriate for different countries, according, for example, to the stage of economic development or reconstruction and the availability of the various factors of production;

Recognizing that inflationary as well as deflationary tendencies may need to be combatted;

Taking note of the resolution adopted by the Second Session of the General Assembly which approved the initiation of surveys of economic conditions and trends and requested recommendations by the Economic and Social Council on appropriate measures relating thereto:

1. Notes that the Economic and Employment Commission and its Sub-Commission on Employment and Economic Stability have been instructed to consider the draft resolution on international action relating to employment prepared by the First Session of the Preparatory Committee; and

AFFIRMS its interest in the four measures specifically recommended for study in that draft resolution.

2. Considers that the studies which have been initiated dealing with the achievement and maintenance of full and productive employment should be advanced as rapidly as possible and that attention should be given now to methods of ensuring that high levels of employment and economic activity shall be maintained even when special factors of temporary duration now prevailing in many countries have ceased to operate, and accordingly

SUGGESTS THAT, with a view to making appropriate recommendations, the Economic and Social Council, in addition to the investigations which it has already undertaken.

(*a*) Request the submission at an early date, by Members of the United Nations and by non-Members represented at the present Conference, of information concerning action which they are now taking to achieve or maintain full employment and economic stability and the nature of any prepared plans to prevent a future decline, and

(*b*) Request the various specialized agencies to indicate the nature and extent of the asistance they are preparing to provide if a decline in employment and economic activity threatens.

3. Considers that, in many countries, the problems of persistent surplus or shortage of manpower are linked with the attainment of full and productive employment and that their solution would advance the aims of the International Trade Organization; and accordingly

SUGGESTS THAT the Economic and Social Council initiate or encourage studies and recommend appropriate action in connection with international aspects of population problems as these relate to employment, production and demand.

4. Considers that, in relation to the maintenance of full employment, it is advantageous to countries which require or receive and to countries which supply workers on a seasonal or temporary basis to adopt regulations which will mutually safeguard their interests and also protect both the migrants and the domestic workers against unfair competition or treatment; and accordingly

SUGGESTS THAT the Economic and Social Council in conjunction with appropriate agencies such as the International Labour Organisation and its Permanent Migration Committee, consider the problems of temporary or seasonal migration

of workers, taking into account existing treaties and long established customs and usages pertaining thereto, for the purpose of formulating, in consultation with Members directly affected, conventions and model bilateral agreements on the basis of which individual governments may concert their actions to ensure mutually advantageous arrangements for their countries and fair conditions for the workers concerned.

RESOLUTION RELATING TO ECONOMIC DEVELOPMENT AND RECONSTRUCTION

The United Nations Conference on Trade and Employment

Having considered the problems of the industrial and general economic development and reconstruction of the Members of the International Trade Organization; and

Having noted the related activities of other inter-governmental organizations and specialized agencies; and

Having determined that positive measures for the promotion of the economic development and reconstruction of Members are an essential condition for the realization of the purpose stated in Article 1 of the Charter of the International Trade Organization and to the accomplishment of the objectives therein set forth; and

Having regard to the provisions of Articles 10, 72, 86 and 87 of the Charter

THEREFORE RESOLVES:

1. That the Interim Commission of the International Trade Organization is hereby directed to examine

(i) the powers, responsibilities and activities in the field of industrial and general economic development and reconstruction of the United Nations, of the specialized agencies and of other inter-governmental organizations, including regional organizations;

(ii) the availability of facilities for technical surveys or studies of: the natural resources of underdeveloped countries; or the possibilities of their industrial development, whether general or in relation to the processing of locally produced raw materials or other particular industries; or for the improvement of their systems of transportation and communications; or with respect to the manner in which investment of foreign capital may contribute to their economic development;

and in the light of this examination to report to the Organization upon

(*a*) the structure and administrative methods,

(*b*) the working relations with the United Nations, the specialized agencies and other inter-governmental organizations including regional organizations which will enable the International Trade Organization most effectively to carry out its positive functions for the promotion of the economic development and reconstruction of Members.

2. That the report and recommendations of the Interim Commission shall be submitted in such a manner and at such a time as will enable the Conference of the International Trade Organization to take appropriate action at its first session.

RESOLUTION OF GRATITUDE TO THE CUBAN GOVERNMENT AND PEOPLE

The United Nations Conference on Trade and Employment

On reaching the termination of its deliberations in the city of Havana,

Recalling with appreciation the generous invitation of the Cuban Government to hold the Conference in Havana,

Recognizing the singularly friendly and effective assistance which it has received at all times from the Cuban Government and people,

Has the honour and deep pleasure to convey the expressions of its heart-felt gratitude

To His Excellency the President of the Republic, Dr. Ramón Grau San Martín, whose benevolent interest and goodwill have been throughout a source of encouragement to the Conference;

To His Excellency Señor Don Rafael González Muñoz, Minister of State, who honoured the Conference by accepting its Honorary Presidency;

To the President of the Cuban Senate and to the President of the Cuban Chamber of Representatives who, together with their parliamentary colleagues, have cheerfully borne considerable inconvenience in order that the work of the Conference might proceed unimpeded at the Capitol Building;

To the President and Secretary-General of the Cuban Auxiliary Commission of the United Nations Conference on Trade and Employment whose untiring efforts are in a high degree responsible for the smooth functioning of the Conference;

To the numerous government departments and private organizations which have assisted unstintingly in furthering the activities of the Conference;

To the press representatives of all countries, who have laboured with great energy and conscientiousness to keep world opinion informed of the progress of the Conference;

And to the very many individuals and social organizations which, having contributed so generously to the enjoyment and well-being of the representatives and to the general success of the Conference, have won the lasting gratitude and goodwill of all those who came to Cuba to participate in the Conference.

Senator MILLIKIN. I would suggest for the convenience of the members of the committee that copies of this general agreement and of the ITO Charter be available at the desk here for reference.

The CHAIRMAN. That will be done.

Senator MILLIKIN. Mr. Brown, do you claim any authority to make this general agreement on tariffs and trade that arises from any source other than the so-called Reciprocal Trade Act?

Mr. BROWN. Senator Millikin, that question was asked in the hearings last year and we supplied a legal memorandum for the record. I will be glad to supply that also for this record.

I might, if the committee will permit me, henceforth call the general agreement on tariffs and trade the GATT, to save a little time.

Senator MILLIKIN. I would be glad to have an exposition for this record of your own view of whether you have made this general agreement on the basis of any authority other than appears in the Reciprocal Trade Act, and as it may have been amended.

Mr. BROWN. My own view is that we have made the agreement under a combination of the authority from the President specifically conferred by the Reciprocal Trade Agreements Act and by his authority generally in the conduct of foreign affairs.

Senator BREWSTER. Did I understand we were going to have this in the record, Mr. Chairman? the two agreements?

The CHAIRMAN. Yes.

Senator BREWSTER. Would it be more convenient if it were in the appendix of the record, rather than in the main part of the record? I am thinking now of the availability of the record.

Mr. BROWN. It is very bulky.

The CHAIRMAN. I was trying to avoid the necessity of printing it again, if we could. It will be in a supplement anyway, because all the proceedings up to last night have already gone to the printer, and this will be a supplemental statement, or an appendix, if you wish to call it that.

Senator BREWSTER. All right.

Senator MILLIKIN. Would you mind restating the observation which you just made?

Mr. BROWN. I said that we negotiated the GATT under a combination of the authority of the President, under the Trade Agreements Act, and his general authority in the conduct of foreign relations, as was stated in the legal memorandum which we submitted last year.

Senator MILLIKIN. Is it your understanding that the regulation of foreign commerce and tariff matters are within the jurisdiction of Congress?

Mr. BROWN. It is my understanding that Congress has authority over tariff matters; yes.

Senator MILLIKIN. And over foreign commerce?

Mr. BROWN. Yes; but I believe the President also has some authority in the field of foreign commerce.

Senator MILLIKIN. Do you claim that the President has, let us say, parallel authority in those two fields?

Mr. BROWN. Sir, I am not a lawyer, and would prefer to secure a legal opinion on a legal matter. I rest on the opinion which has been provided for you.

Senator MILLIKIN. Now, Mr. Brown, will you point out the provisions of this general agreement which were drafted pursuant to the authority of the Reciprocal Trade Act, and those provisions which were drafted pursuant to what you claim is the President's authority in the matter, and those provisions which involve a mixture of the authority you have under the Trade Agreements Act and your alleged authority under the President's rather unspecified powers?

Mr. BROWN. I could not do so, sir.

Senator MILLIKIN. Would you have someone do it?

Mr. BROWN. If it can be done, I will try.

Senator MILLIKIN. Well, it seems to me that is a very important question, Mr. Brown.

Mr. BROWN. I think so, sir. However, when you come down to each individual provision of an agreement which is very closely interrelated, it is difficult to analyze the source or fountainhead of the specific authority for each subparagraph.

Senator MILLIKIN. I suggest that in the formulation of every sentence and paragraph of this document you had counsel available to you who had in mind at every moment what is the authority for this sentence. If not, you were proceeding somewhat irresponsibly, so whether we get it from you or wherever we get it, I would like to have an analysis of this general agreement, sentence by sentence and paragraph by paragraph, to show the claimed authority whether from Reciprocal Trade Act or whether from the powers of the President not covered by the Reciprocal Trade Act, or whether mixed theories are involved.

Could you get that for us?

Mr. BROWN. Yes.

(The following information was subsequently supplied:)

AUTHORITY OF THE PRESIDENT WITH RESPECT TO VARIOUS PROVISIONS OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE

CONSTITUTIONAL AUTHORITY OF THE PRESIDENT

Under the Constitution the President, as the organ of the United States Government for the conduct of foreign affairs, has broad authority to discuss any matter of foreign relations with other governments and come to tentative agreement with them as to how such matters should be handled. Thus his authority as to the negotiation and conclusion of agreements is unlimited by any general responsibility to the Congress. As pointed out by the United States Supreme Court in the case of the *United States* v. *Curtiss-Wright Corp.*, dealing with the exercise by the President of legislative authority to impose an export embargo, the case dealt "not alone with an authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary and exclusive power of the President as the sole organ of the Federal Government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress, but which, of course, like every other governmental power, must be exercised in subordination to the applicable provisions of the Constitution" (1936, opinion by Mr. Justice Sutherland, concurred in by Chief Justice Hughes and Justices Van Devanter, Brandeis, Butler, Roberts, and Cardozo, 299 U. S. 304).

AGREEMENTS ENVISAGED BY SECTION 350

Moreover section 350 of the Tariff Act, added by the Trade Agreements Act, both in general language indicating various purposes and general effects of the agreements which it envisages and in specific authorization to proclaim modifications, indicates an intention that the President should include a wide range of provisions in the trade agreements to be put into effect under the section. The language of section 350 (a) (1), describing the agreements to which effect may be given by proclamation under section 350 (a) (2), contains no limitations upon the broad authority of the President to conclude international agreements discussed above. On the other hand, since the basic purpose of these contemplated agreements shall be to expand markets for American exports, it is essential to this purpose that the tariff concessions obtained by the United States should be protected from nullification or impairment by the other country through the application by such country of other types of trade controls, and that the treatment accorded in the other country to American exports of all kinds should be as free as possible from any form of discrimination. For instance, provisions limiting the application of quantitative restrictions on imports, and rules as to the national treatment of imported articles protect the concessions granted on certain products and prevent certain harmful discriminations against American exports, whether or not specific tariff concessions have been obtained for them.

EXPRESS AUTHORITY

The express authority in section 350 (a) (2) is ample to permit the President to give effect in the United States, by proclamation, to agreements containing such broad provisions. He is authorized to proclaim modifications and continuances of duties and other import restrictions, including various limitations, prohibitions, and charges imposed on importation or for the regulation of imports, and the continuance of customs and excise treatment.

Moreover, section 350 (a), by providing for the "generalization" of trade-agreements concessions to all foreign countries, lays down a general rule of nondiscriminatory treatment, while section 350 (b), permitting an exception to this rule for preferential treatment to Cuba, recognizes the justification for some geographical exceptions to the general rule.

Numerous qualifying provisions are also desirable to permit measures necessary for security and other overriding interests of the United States or the other countries involved, and it has been found helpful to include provisions for consultation in many instances as to questions arising in carrying out the agreements. Such provisions are clearly within the President's authority to conclude international agreements and are fully consistent with the provisions of section 350.

LEGISLATIVE HISTORY

For the almost 15 years during which trade agreements have been concluded, careful attention has been given to the inclusion therein of appropriate provisions designed to prevent the nullification of tariff concessions provided for in the agreements, to protect security and like interests, and for consultation in the operation of the agreements. Provisions of all these types have been discussed at one or another of the numerous congressional hearings on the trade-agreements legislation. Numerous references have been made to these matters in the committee reports relative to the trade-agreements legislation, recognizing their appropriateness or desirability.

For instance, in the House 1934 report on the original trade-agreements legislation, even before any agreements had been completed, it was pointed out that "the President is empowered to deal not merely with customs duties but with other import restrictions," particular attention being called to "the fact that the President may seek from other countries promises that their excise duties shall not be such as to nullify the results of their promises to modify their tariff duties." Continuing with respect to such internal taxes the report explains:

"This is the fruit of bitter experience on the part of the exporters of American goods. One of the chief protective measures which the President will desire to take will consist of pledging other countries not to increase their excise duties at the same time that they are reducing their import duties.

"In order that the necessary reciprocity may be accorded, the President is empowered to provide that existing excise duties which affect imported goods will not be increased during the term of any particular agreement" (U. S. Cong., H. Rept. No. 1000, 73d Cong., 2d sess., p. 15).

Moreover, in referring to the definition of duties and other import restrictions in section 350 (c), this report states that "It is designed to cover the various types of measures for retardation of trade with which the President will be expected to deal in his negotiations with other countries" (ibid. 16).

In discussing the binding of excise treatment in trade agreements in connection with the 1937 extension of the trade-agreements authority, the Senate Finance Committee referred to the earlier discussion of the matter by the Ways and Means Committee. It stated that the committee "again examined this authorization and has unhesitatingly concluded that it is a necessary and desirable adjunct to the Tariff Adjustment Authority which the act vests in the President" (U. S. Cong., S. Rept. No. 111, 75th Cong., 1st sess., p. 5).

Three years later, in 1940, the Ways and Means Committee in supporting the renewal of the trade-agreements authority included the following with regard to the extention of nondiscriminatory treatment to various types of trade regulations:

"The most-favored-nation principle has as its purpose the serving of the commercial interests of the United States by eliminating and guarding against discriminatory measures which would otherwise prevent our exporters from competing on a footing of equality in the markets of the world. The evidence before the committee has shown the manner in which the most-favored-nation policy operates to protect the interests of our commerce and that it has served these interests well.

"The inclusion of the most-favored-nation clause in our trade agreements prevents the concessions we obtain from a country from being nullified by that country subsequently granting greater benefits to our competitors and withholding them from us. Elementary business sense requires that this obvious precaution be taken" (U. S. Cong., H. Rept., No. 1594, 76th Cong., 3d sess., p. 39).

In 1945 the House report contained the following discussion of various safeguarding provisions, especially the escape clause relating to injury to domestic producers:

"The committee regards as particularly noteworthy the broad 'escape' provisions of article XI of the trade agreement with Mexico, to which both Mr. Ryder and Mr. Charles P. Taft, special assistant to the Assistant Secretary of State, Mr. Clayton, have directed the committee's attention. These provisions have evolved from long experience in the operation of the trade-agreements program. In the committee's view they represent a perfected instrument through which trade-barrier reduction can be achieved with full scope of flexibility where flexibility is needed."

"It is the understanding of the committee that it is the intention of the trade-agreements organization to recommend to the President the inclusion of broad safeguarding provisions along the lines of article XI of the Mexican agreement in future trade agreements" (U S. Cong., H. Rept. No. 594, 79th Cong., 1st sess., pp. 8 and 9).

EARLIER PRECEDENTS

Even before passage of the Trade Agreement Act the United States concluded numerous Executive agreements on commercial matters relating to various aspects of most-favored-nation treatment and trade controls such as quotas. As early as 1826 an Executive agreement was concluded with Hawaii by which broad rights in Hawaii were obtained for United States citizens, and vessels with their cargoes (3 Miller's Treaties 269).

In an executive agreement signed with France on January 23, 1908, under the Tariff Act of 1897, it was agreed, in addition to provisions as to specific products, that complaints as to the application of customs regulations should be referred to a mixed commission and adjustment sought on the basis of its report (1 Malloy's Treaties 548). An executive agreement of April 27 and May 2, 1907, with Germany, under the same United States legislation, provided that the specific concessions set forth therein should apply to indirect as well as direct imports and that effect would be given by the United States to a number of modifications in its customs regulations with respect to valuation and documentation (ibid. 563). In another agreement under the same act Spain undertook to extend what amounted to most-favored-nation treatment to the United States in return for specific concessions (2 ibid. 1718).

Under the Tariff Acts of 1922 and 1930 the United States concluded a large number of executive agreements on commercial matters. That of September 25, 1924, with the Dominican Republic, which is still in force, provides that each party shall accord to the other most-favored-nation treatment as to customs duties, transit, and wharehousing and other facilities, with certain geographic and other exceptions specified (4 Trenwith's Treaties 4088). In 1932 an agreement was

concluded between the United States and France in which the latter country undertook to accord the United States most-favored-nation treatment as to quotas and import restrictions, agreed to certain minimum limits on the quotas for American products, and provided certain procedural benefits in the administration of quotas (2 For. Rel. 1932, 232).

ANALYSIS BY ARTICLES

The following analysis of the General Agreement on Tariffs and Trade briefly indicates the principal authority for the inclusion in the agreement of the basic provisions of each article. Several of the substantive articles also contain provisions as to consultation with respect to the matter covered, which are clearly within the President's general authority as to consultation with other governments in the carrying out of international agreements, or exceptions which in one way or another merely limit the extent of the substantive commitments. Moreover, the provisions of part II of the agreement, that is, articles III through XXIII, are applicable only to the extent not inconsistent with legislation existing on October 30, 1947.

Article I—General most-favored-nation treatment as to customs duties, the treatment of imports, with limited geographical exceptions as to duties: Under authority for continuance of duties, customs treatment, and treatment of imports, most-favored-nation treatment also being recognized in generalization provision of section 350 (a) and preferences by section 350 (b).

Article II—Giving effect to tariff concessions with provisions as to excise, valuation, and government-monopoly treatment to protect concessions: Under authority to modify and continue duties, and continue customs and excise treatment and the treatment of imports.

Articles III and IV—Nondiscriminatory treatment of imports, as compared with domestic products, in respect of taxes and other regulations: Under authority as to continuance of excise treatment and treatment of imports.

Article V—Transit rights: Under authority as to continuance of duties, customs treatment, excise treatment, and the treatment of imports.

Article VI—Antidumping and countervailing duties: Under authority as to continuance of duties and customs treatment.

Article VII—Valuation for customs purposes: Under authority as to continuance of duties and customs treatment.

Article VIII—Customs formalities: Under authority as to continuance of customs treatment, including charges.

Article IX—Marks of origin: Under authority as to continuance of customs treatment.

Article X—Publication and administration of trade regulations: Under the President's general authority as to international relations (especially as to publication) and authority as to continuance of customs treatment.

Articles XI and XII—Elimination of quantitative restrictions and exceptions thereto for balance of payment and other reasons: Under authority as to modification of import restrictions, continuance of customs treatment, and treatment of imports.

Articles XIII and XIV—Nondiscriminatory application of quantitative restrictions and exceptions thereto for balance of payment and other reasons: Under authority as to continuance of customs treatment and treatment of imports.

Article XV—Cooperation with International Monetary Fund on exchange matters: Under the President's general authority as to international relations, relations with the fund having been recognized by Public Law 171, Seventy-ninth Congress, first session (see especially sec. 14), and authority as to continuance of customs treatment.

Article XVI—Consultation as to subsidies: Under the President's general authority as to international relations, subsidies having been recognized as capable of impairing trade agreement benefits.

Article XVII—State trading activities: Under authority as to continuance of customs treatment, and the treatment of imports, state trading practices having been recognized as capable of impairing trade-agreement benefits.

Article XVIII—Exceptions for the assistance to industrial development: Under authority as to modifications and continuance of duties and import restrictions and treatment of imports.

Article XIX—Escape clause in case of domestic injury: Under authority as to modification of duties and import restrictions and expressly recognized by congressional report as desirable.

Article XX—General exceptions: Under the President's general authority as to international relations and authority as to continuance of customs treatment, and treatment of imports, also recognized in numerous laws as those relating to sanitary regulations and trademarks.

Article XXI—Security exceptions: Under the President's general authority as to international relations and authority as to continuance of customs treatment, and treatment of imports, also recognized in numerous laws such as regulation of arms traffic and export-control legislation.

Article XXII—Consultation as to customs and related matters: Under the President's general authority as to international relations, also recognized by authority as to continuance of customs treatment and treatment of imports.

Article XXIII—Permissive action in case of nullification or impairment: Under the President's general authority as to international relations and authority as to modification of duties and import restrictions.

Article XXIV—Territorial application and certain territorial exceptions from most-favored-nation treatment: Under the President's general authority as to international relations, territorial exceptions to most-favored-nation treatment having been recognized by section 350 (b).

Article XXV—Joint action: Under the President's general authority as to international relations, especially the effective execution of multilateral international agreements, and authority as to modification of duties and import restrictions and termination of proclamations under last sentence of section 350 (a) (as to withholding of benefits under paragraph 5 (b)).

Article XXVI—Procedures as to entry into force following provisional application: Under the President's general authority as to international relations to include appropriate procedural provisions in agreements.

Article XXVII—Withholding and withdrawal of concessions: Under authority as to modification and continuance of duties and import restrictions and termination of proclamations under last sentence of section 350 (a).

Article XXVIII—Modification of schedules: Under authority as to modification and continuance of duties and import restrictions and termination of proclamations under section 350 (a) with recognition of termination provisions as to trade agreements in section 2 (b) of Trade Agreements Act.

Article XXIX—Relation to International Trade Organization: Under the President's general authority as to international relations to include appropriate termination provisions in agreements, with recognition of section 14 of Public Law 171, Seventy-ninth Congress, first session, and intention to submit International Trade Organization Charter to Congress.

Article XXX—Amendments: Under the President's authority as to international relations, and authority as to modification of import restrictions, and treatment of imports.

Article XXXI—Withdrawal from the agreement: Under the President's general authority as to international relations, with recognition of section 2 (a) of Trade Agreements Act as to termination of agreements, and authority to terminate proclamations under the last sentence of section 350 (a).

Articles XXXII to XXXIV—Certain procedural provisions, including accession: Under the President's general authority as to international relations to include appropriate procedural provisions in agreements (new tariff negotiations in connection with accession would be in accordance with procedures of Trade Agreement Act).

Article XXXV—Withholding application: Under the President's general authority as to international relations, with recognition of procedures provided for in the Trade Agreements Act.

Senator MILLIKIN. It would be useful to have it as quickly as possible because it will have an important development.

The CHAIRMAN. You are referring to what?

Senator MILLIKIN. The general agreements on tariffs and trade, made at Geneva.

The CHAIRMAN. Not the ITO?

Senator MILLIKIN. No; the general agreements on tariffs and trade, which is now provisionally effective.

Mr. Chairman, so that we may have a convenient measuring stick with which to judge what has been done against the authority to act granted in the Reciprocal Trades Act, I now ask that the Reciprocal

Trades Act as passed or as approved on June 12, 1934, and the subsequent amendments which in the main were simple extensions of the time period of the original act, be included in the record at this point.

The CHAIRMAN. They will be included. They are already in the report, but you wish them all in this hearing?

Senator MILLIKIN. Yes; they are not bulky.

(The matter referred to is as follows:)

CHRONOLOGICAL LEGISLATIVE HISTORY OF THE TRADE AGREEMENTS ACT

[PUBLIC—NO. 316—73D CONGRESS]

[H. R. 8687]

AN ACT To amend the Tariff Act of 1930.

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

"PART III—PROMOTION OF FOREIGN TRADE

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

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

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

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

"(c) As used in this section, the term 'duties and other import restrictions' includes (1) rate and form of import duties and classification of articles, and

(2) limitations, prohibitions, charges, and exactions other than duties, imposed on importation or imposed for the regulation of imports."

SEC. 2. (a) Subparagraph (d) of paragraph 369, the last sentence of paragraph 1402, and the provisos to paragraphs 371, 401, 1650, 1687, and 1803 (1) of the Tariff Act of 1930 are repealed. The provisions of sections 336 and 516 (b) of the Tariff Act of 1930 shall not apply to any article with respect to the importation of which into the United States a foreign trade agreement has been concluded pursuant to this Act, or to any provision of any such agreement. The third paragraph of section 311 of the Tariff Act of 1930 shall apply to any agreement concluded pursuant to this Act to the extent only that such agreement assures to the United States a rate of duty on wheat flour produced in the United States which is preferential in respect to the lowest rate of duty imposed by the country with which such agreement has been concluded on like flour produced in any other country; and upon the withdrawal of wheat flour from bonded manufacturing warehouses for exportation to the country with which such agreement has been concluded, there shall be levied, collected, and paid on the imported wheat used, a duty equal to the amount of such assured preference.

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

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

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

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

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

[PUBLIC RESOLUTION—No. 10—75TH CONGRESS]

[CHAPTER 22—1ST SESSION]

[H. J. Res. 96]

JOINT RESOLUTION To extend the authority of the President under section 350 of the Tariff Act of 1930, as amended.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period during which the President is authorized to enter into foreign-trade agreements under section 350 of the Tariff Act of 1930, as amended by the Act (Public, Numbered 316, Seventy-third Congress) approved June 12, 1934, is hereby extended for a further period of three years from June 12, 1937.

Approved, March 1, 1937.

[PUBLIC RESOLUTION—No. 61—76TH CONGRESS]

[CHAPTER 96—3D SESSION]

[H. J. Res. 407]

JOINT RESOLUTION To extend the authority of the President under section 350 of the Tariff Act of 1930, as amended.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period during which the President is authorized to enter into foreign-trade agreements under section 350 of the Tariff Act of 1930,

as amended by the Act (Public, Numbered 316, Seventy-third Congress) approved June 12, 1934, is hereby extended for a further period of three years from June 12, 1940.

Approved, April 12, 1940.

[PUBLIC LAW 66—78th CONGRESS]

[CHAPTER 118—1ST SESSION]

[H. J. Res. 111]

JOINT RESOLUTION To extend the authority of the President under section 350 of the Tariff Act of 1930, as amended.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period during which the President is authorized to enter into foreign-trade agreements under section 350 of the Tariff Act of 1930, as amended by the Act (Public, Numbered 316, Seventy-third Congress) approved June 12, 1934, is hereby extended for a further period of two years from June 12, 1943.

SEC. 2. Section 350 (a) (2) of the Tariff Act of 1930 (U. S. C., 1940 edition, title 19, sec. 1351 (a) (2)) is amended by inserting after "because of its discriminatory treatment of American commerce or because of other acts" the following: "(including the operations of international cartels)".

Approved June 7, 1943.

[PUBLIC LAW 130—79TH CONGRESS]

[CHAPTER 269—1ST SESSION]

[H. R. 3240]

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

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

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

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

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

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

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

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

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

Approved July 5, 1945.

[PUBLIC LAW 792—80TH CONGRESS]

[CHAPTER 678—2D SESSION]

[H. R. 6556]

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Trade Agreements Extension Act of 1948".

SEC. 2. The period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930, as amended (U. S. C., 1946 edition, title 19, sec. 1351), is hereby extended from June 12, 1948, until the close of June 30, 1949.

SEC. 3. (a) Before entering into negotiations concerning any proposed foreign trade agreement under section 350 of the Tariff Act of 1930, as amended, the President shall furnish the United States Tariff Commission (hereinafter in this Act referred to as the "Commission") with a list of all articles imported into the United States to be considered for possible modification of duties and other import restrictions, imposition of additional import restrictions, or continuance of existing customs or excise treatment. Upon receipt of such list the Commission shall make an investigation and report to the President the findings of the Commission with respect to each such article as to (1) the limit to which such modification, imposition, or continuance may be extended in order to carry out the purpose of such section 350 without causing or threatening serious injury to the domestic industry producing like or similar articles; and (2) if increases in duties or additional import restrictions are required to avoid serious injury to the domestic industry producing like or similar articles the minimum increases in duties or additional import restrictions required. Such report shall be made by the Commission to the President not later than 120 days after the receipt of such list by the Commission. No such foreign trade agreement shall be entered into until the Commission has made its report to the President or until the expiration of the 120-day period.

(b) In the course of any investigation pursuant to this section the Commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings.

(c) Section 4 of the Act entitled "An Act to amend the Tariff Act of 1930", approved June 12, 1934, as amended (U. S. C., 1946 edition, title 19, sec. 1354), is hereby amended by striking out the matter following the semicolon and inserting in lieu thereof the following: "and before concluding such agreement the President shall request the Tariff Commission to make the investigation and report provided for by section 3 of the Trade Agreements Extension Act of 1948, and shall seek information and advice with respect to such agreement from the Departments of State, Agriculture, and Commerce, from the National Military Establishment, and from such other sources as he may deem appropriate."

SEC. 4. The Commission shall furnish facts, statistics, and other information at its command to officers and employees of the United States preparing for or participating in the negotiation of any foreign trade agreement; but neither the Commission nor any member, officer, or employee of the Commission shall participate in any manner (except to report findings, as provided in section 3 of this Act and to furnish facts, statistics, and other information as required by this section) in the making of decisions with respect to the proposed terms of any foreign trade agreement or in the negotiation of any such agreement.

SEC. 5. (a) Within thirty days after any trade agreement under section 350 of the Tariff Act of 1930, as amended, has been entered into which, when effective, will (1) require or make appropriate any modification of duties or other import

restrictions, the imposition of additional import restrictions, or the continuance of existing customs or excise treatment, which modification, imposition, or continuance will exceed the limit to which such modification, imposition, or continuance may be extended without causing or threatening serious injury to the domestic industry producing like or similar articles as found and reported by the Tariff Commission under section 3, or (2) fail to require or make appropriate the minimum increase in duty or additional import restrictions required to avoid such injury, the President shall transmit to Congress a copy of such agreement together with a message accurately identifying the article with respect to which such limits or minimum requirements are not complied with, and stating his reasons for the action taken with respect to such article. If either the Senate or the House of Representatives, or both, are not in session at the time of such transmission, such agreement and message shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be.

(b) Promptly after the President has transmitted such foreign trade agreement to Congress the Commission shall deposit with the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a copy of its report to the President with respect to such agreement.

Approved June 26, 1948.

H. R. 1211, Eighty-first Congress, First Session

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Trade Agreements Extension Act of 1949".

Sec. 2. The Trade Agreements Extension Act of 1948 (Public Law 792, Eightieth Congress) is hereby repealed.

Sec. 3. The period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930, as amended and extended, is hereby extended for a further period of three years from June 12, 1948.

Sec. 4. Section 350 (a) of the Tariff Act of 1930, as amended, is hereby further amended by deleting the following therefrom: "in the present emergency in restoring the American standard of living, in overcoming domestic unemployment and the present economic depression, in increasing the purchasing power of the American public, and".

Sec. 5. Section 4 of the Act entitled "An Act to amend the Tariff Act of 1930", approved June 12, 1934, as amended (U. S. C., 1946 edition, title 19, sec. 1354), is hereby amended by striking out the matter following the semicolon and inserting in lieu thereof the following: "and before concluding such agreement the President shall seek information and advice with respect thereto from the United States Tariff Commission, from the Departments of State, Agriculture, and Commerce, from the National Military Establishment, and from such other sources as he may deem appropriate."

Sec. 6. Section 350 (b) of the Tariff Act of 1930, as amended (U. S. Code, 1946, title 19, sec. 1351 (b)), is amended by changing the colon to a period, by deleting the proviso, and by adding the following: "Nothing in this Act shall be construed to preclude the application to any product of Cuba (including products preferentially free of duty) of a rate of duty not higher than the rate applicable to the like products of other foreign countries (except the Philippines), whether or not the application of such rate involves any preferential customs treatment. No rate of duty on products of Cuba shall in any case be decreased by more than 50 per centum of the rate of duty, however established, existing on January 1, 1945 (even though temporarily suspended by Act of Congress)."

Changes in Existing Law

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

[[PUBLIC LAW 792—80TH CONGRESS]

[[CHAPTER 678—2D SESSION]

[[H. R. 6556]

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

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Trade Agreements Extension Act of 1948".

[SEC. 2. The period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930, as amended (U. S. C., 1946 edition, title 19, sec. 1351), is hereby extended from June 12, 1948, until the close of June 30, 1949.

[SEC. 3. (a) Before entering into negotiations concerning any proposed foreign trade agreement under section 350 of the Tariff Act of 1930, as amended, the President shall furnish the United States Tariff Commission (hereinafter in this Act referred to as the "Commission") with a list of all articles imported into the United States to be considered for possible modification of duties and other import restrictions, imposition of additional import restrictions, or continuance of existing customs or excise treatment. Upon receipt of such list the Commission shall make an investigation and report to the President the findings of the Commission with respect to each such article as to (1) the limit to which such modification, imposition, or continuance may be extended in order to carry out the purpose of such section 350 without causing or threatening serious injury to the domestic industry producing like or similar articles; and (2) if increases in duties or additional import restrictions are required to avoid serious injury to the domestic industry producing like or similar articles the minimum increases in duties or additional import restrictions required. Such report shall be made by the Commission to the President not later than 120 days after the receipt of such list by the Commission. No such foreign trade agreement shall be entered into until the Commission has made its report to the President or until the expiration of the 120-day period.

[(b) In the course of any investigation pursuant to this section the Commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings.

[(c) Section 4 of the Act entitled "An Act to amend the Tariff Act of 1930", approved June 12, 1934, as amended (U. S. C., 1946 edition, title 19, sec. 1354), is hereby amended by striking out the matter following the semicolon and inserting in lieu thereof the following: "and before concluding such agreement the President shall request the Tariff Commission to make the investigation and report provided for by section 3 of the Trade Agreements Extension Act of 1948, and shall seek information and advice with respect to such agreement from the Departments of State, Agriculture, and Commerce, from the National Military Establishment, and from such other sources as he may deem appropriate."

[SEC. 4. The Commission shall furnish facts, statistics, and other information at its command to officers and employees of the United States preparing for or participating in the negotiation of any foreign trade agreement; but neither the Commission nor any member, officer, or employee of the Commission shall participate in any manner (except to report findings, as provided in section 3 of this Act and to furnish facts, statistics, and other information as required by this section) in the making of decisions with respect to the proposed terms of any foreign trade agreement or in the negotiation of any such agreement.

[SEC. 5. (a) Within thirty days after any trade agreement under section 350 of the Tariff Act of 1930, as amended, has been entered into which, when effective, will (1) require or make appropriate any modification of duties or other import restrictions, the imposition of additional import restrictions, or the continuance of existing customs or excise treatment, which modification, imposition, or continuance will exceed the limit to which such modification, imposition, or continuance may be extended without causing or threatening serious injury to the domestic industry producing like or similar articles as found and reported by the Tariff Commission under section 3, or (2) fail to require or make appropriate the minimum increase in duty or additional import restrictions required to avoid such injury, the President shall transmit to Congress a copy of such agreement together with a message accurately identifying the article with respect to which such limits or minimum requirements are not complied with, and stating his reasons for the action taken with respect to such article. If either the Senate or the House of

Representatives, or both, are not in session at the time of such transmission, such agreement and message shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be.

[(b) Promptly after the President has transmitted such foreign trade agreement to Congress the Commission shall deposit with the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a copy of its report to the President with respect to such agreement.]

TARIFF ACT OF 1930, AS AMENDED

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

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

(2) To proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and for such minimum periods, of existing customs or excise treatment of any article covered by foreign trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder. No proclamation shall be made increasing or decreasing by more than 50 per centum any rate of duty, however established, existing on January 1, 1945 (even though temporarily suspended by Act of Congress), or transferring any article between the dutiable and free lists. The proclaimed duties and other import restrictions shall apply to articles the growth, produce, or manufacture of all foreign countries, whether imported directly, or indirectly: *Provided*, That the President may suspend the application to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts (including the operations of international cartels) or policies which in his opinion tend to defeat the purposes set forth in this section; and the proclaimed duties and other import restrictions shall be in effect from and after such time as is specified in the proclamation. The President may at any time terminate any such proclamation in whole or in part.

(b) Nothing in this section shall be construed to prevent the application, with respect to rates of duty established under this section pursuant to agreements with countries other than Cuba, of the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or to preclude giving effect to an exclusive agreement with Cuba concluded under this section, modifying the existing preferential customs treatment of any article the growth, produce, or manufacture of [Cuba: *Provided*, That the duties on such an article shall in no case be increased or decreased by more than 50 per centum of the duties, however established, existing on January 1, 1945 (even though temporarily suspended by Act of Congress).] *Cuba. Nothing in this Act shall be construed to preclude the application to any product of Cuba (including products preferentially free of duty) of a rate of duty not higher than the rate applicable to the like products of other foreign countries (except the Philippines), whether or not the application of such rate involves any preferential customs treatment. No rate of duty on products of Cuba shall in any case be decreased by more than 50 per centum of the rate of duty, however established, existing on January 1, 1945 (even though temporarily suspended by Act of Congress).*

TRADE AGREEMENTS ACT OF JUNE 12, 1934, AS AMENDED

SEC. 4. Before any foreign trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this Act, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe; [and before concluding such agreement the President shall request the Tariff Commission to make the investigation and report provided for by section 3 of the Trade Agreements Extension Act of 1948, and shall seek information and advice with respect to such agreement from the Departments of State, Agriculture, and Commerce, from the National Military Establishment, and from such other sources as he may deem appropriate.] *and before concluding such agreement the President shall seek information and advice with respect thereto from the United States Tariff Commission, from the Departments of State, Agriculture, and Commerce, from the National Military Establishment, and from such other sources as he may deem appropriate.*

Senator MILLIKIN. Do you claim to have any authority out of any of the amendments to the original act?

Mr. BROWN. Yes. In 1945 the authority of the President, or the extent to which he could change the tariff rate, was changed from the level of rates existing in 1930 to the level of rates existing in 1945.

Senator MILLIKIN. That is the only change?

Mr. BROWN. That is the only one I think of immediately.

Senator MILLIKIN. Except as to the extension of time and except as to the margin within which to make changes, to the extent that you claim authority in this field you derive it from the original?

Mr. BROWN. I believe that is right.

Senator MILLIKIN. I would like to have the original Trade Act, and I would like to read it into the record.

Mr. Brown, this added this additional section 350 to the then existing act of 1930, did it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Omitting the preamble, it reads:

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

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

(2) To proclaim such modifications of existing duties and other important restrictions, or such additional import restrictions, or such continuance, and for such minimum periods of existence customs or excise treatment of any article covered by foreign trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder. No proclamation shall be made increasing or decreasing by more than 50 per centum any rate of duty, however established, existing on January 1, 1945 (even though temporarily suspended by Act of Congress), or transferring any article between the dutiable and free lists. The proclaimed

duties and other import restrictions shall apply to articles the growth, produce or manufacture of all foreign countries, whether imported directly or indirectly: *Provided*, That the President may suspend the application to articles the growth, produce or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts (including the operations of international cartels) or policies which in his opinion tend to defeat the purposes set forth in this section; and the proclaimed duties and other import restrictions shall be in effect from and after such time as is specified in the proclamation. The President may at any time terminate any such proclamation in whole or in part.

(b) Nothing in this section shall be construed to prevent the application, with respect to rates of duty established under this section pursuant to agreements with countries other than Cuba, of the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or to preclude giving effect to an exclusive agreement with Cuba concluded under this section, modifying the existing preferential customs treatment of any article the growth, produce or manufacture of Cuba: *Provided*, That the duties on such an article shall in no case be increased or decreased by more than 50 per centum of the duties, however established, existing on January 1, 1945 (even though temporarily suspended by Act of Congress).

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

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

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

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

SEC. 2. (a) Subparagraph (d) of paragraph 369, the last sentence of paragraph 1402, and the provisos to paragraphs 371, 401, 1650, 1687, and 1803 (l) of the Tariff Act of 1930 are repealed. The provisions of sections 336 and 516 (b) of the Tariff Act of 1930 shall not apply to any article with respect to the importation of which into the United States a foreign trade agreement has been concluded pursuant to this Act, or to any provision of any such agreement. The third paragraph of section 311 of the Tariff Act of 1930 shall apply to any agreement concluded pursuant to this Act to the extent only that such agreement assures to the United States a rate of duty on wheat flour produced in the United States which is preferential in respect to the lowest rate of duty imposed by the country with which such agreement has been concluded on like flour produced in any other country; and upon the withdrawal of wheat flour from bonded manufacturing warehouses for exportation to the country with which such agreement has been concluded, there shall be levied, collected, and paid on the imported wheat used, a duty equal to the amount of such assured preference.

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

(c) The authority of the President to enter into foreign trade agreements under section 1 of this Act shall terminate on the close of June 30, 1949.

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

SEC. 4. Before any foreign trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this Act, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as

the President may designate, under such rules and regulations as the President may prescribe; and before concluding such agreement the President shall request the Tariff Commission to make the investigation and report provided for by section 3 of the Trade Agreements Extension Act of 1948, and shall seek information and advice with respect to such agreement from the Departments of State, Agriculture, and Commerce, from the National Military Establishment, and from such other sources as he may deem appropriate.

Now, that is the whole of the Reciprocal Trade Act of 1934. And with the exception of the amendments which we have discussed, it forms the basis of your action in concluding the general agreement, plus whatever extra Presidential powers you have invoked. That is correct.

Mr. Brown, when this subject was before us a year ago, the extension was limited to 1 year, because it was considered to approach the subject intelligently we had to consider reciprocal trade, ITO, and ECA together. You have already testified that you had ITO since March of 1948; is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And it of course is obvious that it has not been submitted. It has also been testified that ITO is in the hands of the President and that the State Department expects it to come over here in a couple of weeks, or several weeks; is that correct?

Mr. BROWN. The latter, sir.

Senator MILLIKIN. The latter. Several weeks.

I want the record to be very clear as to this point of the 1-year extension, because it has direct bearing on further extension of the act in the absence of ITO.

At that time, the junior Senator from Colorado, among other things, said to the Senate, as it appears on page 8309 of the record of June 14, 1948 [reading]:

What are the objections to the bill with its proposed amendments? They come to these:

First. A year's extension is not enough;

Second. The bill mandates a single standard—noninjury for domestic producers—for making an agreement;

Third. Costs of production would be the sole inquiry of the Tariff Commission and this is impractical under the present state of the world's economy;

Fourth. It will put too much of a burden on the Tariff Commission, and that the Commission is not competent to give advice on peril points;

Fifth. The Tariff Commission will be subjected to pressure;

Sixth. It is not necessary, because domestic producers are protected by the escape clause;

Seventh. It would destroy the functions of the Interdepartmental Committee which now advises the President as to what should be done;

Eighth. It would reimpose the Smoot-Hawley tariff law, which would restore high protectionism; and

Ninth. It would restore tariff making by logrolling.

As to the claim that 1 year's extension is not enough, I respectfully suggest that it is easily demonstrable that a longer extension would be senseless. In the first place, it will be quite evident before the day is over and it has already been made quite evident by public discussion of the matter and by testimony at the hearings that in this election year it is impossible to give the subject the type of review which might justify a longer extension. But the decisive reason is in the relation of the Reciprocal Trade Agreements Act to the Geneva multilateral trade agreement and the proposed charter of the International Trade Organization drafted earlier this year at Habana. Anticipating that the extension of the act and the action on the proposed charter for the International Trade Organization would be before the Congress during this session, the Senate Committee on Finance a year ago conducted extensive preliminary hearings on the subject. These hearings were held because the interlocking relationship between the act, the Geneva agreement, which was in the offing, and the proposed charter

for the International Trade Organization, was thoroughly understood by the Senate.

The provisions of the Geneva multilateral trade agreement make entirely clear the inextricable relationships between the three matters which had been mentioned, from which it follows that whether we do or do not approve the proposed charter for the International Trade Organization, revisions will have to be made in the Reciprocal Trade Agreements Act in order to conform it and to make it supplemental to the proposed charter, if it should be adopted, or to conform it to or to delimit nonconformance with the Geneva agreement if the proposed charter is not adopted.

This should not and will not be allowed to stand on mere assertion. Let me emphasize at this point that the proposed charter for the International Trade Organization has not been submitted to Congress and will not be submitted until next year.

I ask the close attention of the Senators, because I propose now to demonstrate the inextricable relationship between the Trade Agreements Act, the Geneva multilateral trade agreement, and the proposed International Trade Organization's charter, and that this condemns an extension of more than 1 year.

Then I proceeded to take various articles from the general agreement on tariffs and trades, and brought to the attention of the Senate their significance and the relationships between those provisions and our reciprocal trade law and the proposed International Trade Organization; all to the point, which I suggest the Senate then sustained, that until we had ITO before us, we were handicapped in consideration of further extensions, and that therefore the extension should not exceed 1 year.

Can you tell us, Mr. Brown, why the ITO has been withheld from the consideration of Congress since last March?

Mr. BROWN. I have nothing to add to what Mr. Thorp said on that subject, sir.

Senator MILLIKIN. What he said was, in effect, as I recall it—and I would like to be corrected if I am wrong—that last year the State Department's solicitude for the heavy work load of Congress at that time caused the State Department to oppose presenting the charter to the Congress. Is that correct?

Mr. BROWN. He said something along those lines; yes, sir.

Senator MILLIKIN. And since then, what did he say was the reason why it had not been presented?

Mr. BROWN. I don't remember precisely what he did say. I think he said he expected it to be coming up within the next several weeks, and that it was part of the general legislative program.

Senator MILLIKIN. Was the State Department aware of the desire of the Congress last year to have ITO before it in connection with consideration of reciprocal trade extensions?

Mr. BROWN. The State Department was aware of the debates in the Congress; yes, sir.

Senator MILLIKIN. And the State Department apparently reversed the desire of Congress or had its own contrary notions as to what should be done. Correct?

Mr. BROWN. I would say that the decision as to when any legislative matter is presented by the administration to the Congress is a decision which the President must make; and we hope and expect that the ITO will be up here within the next several weeks.

Senator MILLIKIN. The fact of the matter is that another year has passed, and we have reciprocal trade before us again, and we do not have ITO before us so that they may all be considered in some sort of coordinated fashion. That is the end point.

Mr. BROWN. That is the fact. And I expect later, sir, that you will go into the question of the relationship, and I may have some comments to make.

Senator MILLIKIN. I am forced to do so, through the absence of ITO. I think that in connection with this extension the Senate and the Congress are entitled to understand exactly what we have gotten into and what the relation of that is to what we propose to get into. It is not a pleasant task, but it seems to me it is necessary to explore it.

Mr. BROWN. It is our opinion that the Trade Agreements Act stands on its own feet, and that we would be here before you asking for a renewal of the Trade Agreements Act whether or not there were an ITO and whether or not there will be an ITO.

Senator MILLIKIN. I understand you to say that in your opinion the Trade Agreements Act stands on its own feet. Correct?

Mr. BROWN. Yes, sir. And we would hope that the Trade Agreements Act would be extended and that the process of trade agreement negotiation could be continued whether or not the ITO comes into existence.

Senator MILLIKIN. Do you have volume 2 available to you of our hearings on the relationship between these two things, of 1947?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Let me invite your attention to page 876.

Senator LUCAS. What is the date of that, Senator? The date of the volume you are reading from.

Senator MILLIKIN. Well, the hearings were held on March 20, 21, 24, 25, 26, 27, 29, 31, and April 1, 2, and 3, of 1947.

Senator LUCAS. On reciprocal trade?

Senator MILLIKIN. On reciprocal trade and the relationship of reciprocal trade to ITO.

Senator LUCAS. Well, we did not have special hearings on ITO standing alone last year.

Senator MILLIKIN. Not last year. No, sir.

Senator BREWSTER. We did in 1947.

Senator MILLIKIN. In 1947 we did the best that we could with the drafts that were before us, but which led to an inconclusive result, because those drafts were always changed, and finally culminated in the Havana charter which, in some respects, in a number of respects, is substantially different from the drafts which we had before us in 1947.

Senator LUCAS. Well, the point I make is that we did pass a reciprocal trade agreement program last year without the ITO. The ITO exhaustive examination was held after we passed the reciprocal trade agreement program.

Senator MILLIKIN. Oh, no.

Senator LUCAS. Was it before?

Senator MILLIKIN. It was a year before, Senator. And we necessarily had to confine ourselves to preliminary drafts at that time. And before you came in, I was pointing out that the reason for the 1-year extension last year was that we would have ITO before use, so that we could consider it in its final form in relation to the reciprocal trade program.

Senator LUCAS. Let me ask you this: How long do you think it would take you, Senator, to examine witnesses with respect to the ITO program, as it relates to the reciprocal trade agreements?

Senator MILLIKIN. That is the purpose of my examination: To develop the relationship between the general agreement, what is called the general agreement on tariffs and trade, which is a part of our reciprocal trade system at the present time, and the proposed ITO.

Senator LUCAS. I understand that.

Senator MILLIKIN. You are asking how long it will take, Senator. It will take several days. It cannot possibly be done in less than several days. It might run on longer than that. I do not see how, in view of the fact that they will not bring ITO in here in time for us to give it consideration when it should be considered on an official basis—I do not see how at this time, when we are asking for a 2-year extension, we can avoid the duty of going into it.

Senator LUCAS. Then it is your position that there is no vote on reciprocal trade until you have examined the ITO.

Senator MILLIKIN. I would not put it quite that way. I say that there should not be a vote on reciprocal trade until the relationship has been thoroughly explored.

Senator LUCAS. Well, I can see where, with all of your resourcefulness, Senator, you could be here for several weeks on ITO alone.

Senator MILLIKIN. Goodness knows, I hope not to be here that long.

Senator LUCAS. I am afraid, the way we are going, that is what is going to happen.

Senator MILLIKIN. But I do hope to be here long enough to make a thorough record on the subject, which, I say, is not something that I prefer to do, but is something which I believe the interest of the country require, if we are to know what we are doing in the Senate when we come to a vote on this matter.

Senator LUCAS. Thank you, Senator, for your frank answers.

Senator MILLIKIN. Yes, sir.

Senator LUCAS. I thought I understood you. Now I know I do.

Senator MILLIKIN. I appreciate the Senator's frank questions.

Senator BREWSTER. I think we also appreciate the solicitude of the majority leader.

Senator LUCAS. I may also ask for a little bit of reciprocity on solicitude.

Senator MILLIKIN. Mr. Brown, on page 876 is what is called exhibit IV–C, "Multilateral trade-agreement negotiations." That is a part, is it not, of a State Department publication entitled "Preliminary Draft Charter for the International Trade Organization of the United Nations," with this footnote [reading]:

> Articles as drafted at the London meeting, October 15 to November 26, 1946, by the preparatory committee of the International Conference on Trade and Employment, together with the original American drafts of articles on which the preparatory committee took no specific action.

It bears the Department of State publication date, I assume, of December 1946. Is that correct?

Mr. BROWN. Did you say page 876, sir? The document is a correct document, and it is an official document. Whether it is a State Department or a United Nations publication, I don't know, but it is a correct and accurate document.

Senator MILLIKIN. I am not talking about who put it out. But I am asking you whether it is a part of this document called Inter-

national Charter for Trade Organization of the United Nations, Department of State, 1946, and so forth.

Mr. BROWN. Well, I don't see the reference, sir, but I am perfectly willing to agree that it is an official and correct document.

Senator MILLIKIN. It starts at page 795.

Mr. BROWN. Yes; that is correct.

Senator MILLIKIN. Now will you please run through until you get to page 876, and then you will be in a position to answer me as to whether that is a part of that particular document that was put out.

Mr. BROWN. I am told it is not. But I am quite willing to admit, sir, that it is a correct and official document and reflects the papers that were prepared at the preparatory meeting. Whether or not it is a United Nations document or a State Department document, I don't know.

Senator MILLIKIN. Oh, I am not asking you that question. That was not my question, Mr. Brown.

Mr. BROWN. I am advised that the document which begins on page 795 ends on page 876, and that exhibit IV–C is a separate document.

Senator MILLIKIN. It is a separate document, and what is the source of that?

Mr. BROWN. That is a resolution adopted at the London meeting of the Preparatory Committee.

Senator MILLIKIN. In October of 1946?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And the document to which we referred, which commences on page 795, concerns itself with the same subject, does it not?

Mr. BROWN. One is a document about the Charter, and the other is a document about multilateral trade agreement negotiations.

Senator MILLIKIN. Now, then, we will get at this exhibit commencing on page 876, entitled "Exhibit IV–C, Multilateral Trade-Agreement Negotiations."

It says [reading]:

Resolution regarding the negotiation of a multilateral trade agreement embodying tariff concessions adopted at the first session of the Preparatory Committee of the United Nations Conference on Trade and Employment, London, October 1946.

That is the heading. [Reading:]

Whereas the resolution of the Economic and Social Council on 18 February, 1946, decided to call an International Conference on Trade and Employment for the purpose of promoting the expansion of production, exchange, and consumption of goods, constituted this Committee to elaborate an annotated draft agenda, including a draft convention, for consideration by the Conference, and suggested that the agenda of this Committee include among its topics, "International Agreement relating to Regulations, Restrictions, and Distriminations Affecting International Trade," and "Establishment of an International Trade Organization" * * *.

I am talking, Mr. Brown, in reply to your suggestion that these two things are independent. I will show that there is a moral connection, and that there is a legal connection.

Mr. BROWN. Senator, I would quite agree that there is a connection. But what I said is, and I still maintain that whether or not there was an ITO, we would be here asking for a renewal of the trade

agreement authority, and we would hope, and we believe, that the Trade Agreement Act and the authority which it confers and the negotiating process which takes place under it will continue whether or not there is an International Trade Organization.

Senator MILLIKIN. Mr. Brown, it is obviously irrelevant to say what you would do if you were confronted with different situations than you are confronted with. The question is: What did you do?

Mr. BROWN. Senator, I don't agree with that.

Senator MILLIKIN. I continue to read:

Whereas, the task of the Conference—

Now, that was a conference to draft a charter, was it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN (continues reading):

will be facilitated if concrete action is taken by the principal trading nations to enter into reciprocal and mutually advantageous negotiations directed to the substantial reduction of tariffs and to the elimination of preferences—

That shows connection, does it not?

Mr. BROWN. It states that the task of the Conference would be facilitated by that process.

Senator MILLIKIN. It shows connection, does it not?

Mr. BROWN. Yes.

Senator MILLIKIN. All right. [Reading:]

The Preparatory Committee of the International Conference on Trade and Employment—

Hereby recommends to the governments concerned that the meeting of members of the Preparatory Committee envisaged by the invitations sent out by the United States Government should be held under the sponsorship of the Preparatory Committee in connection with, and as a part of, the Second Session of the Committee, conducted in accordance with the procedures recommended in the Memorandum on Procedures approved by the Preparatory Committee at its current session.

And invites the member governments to communicate to the Executive Secretary their views on this recommendation.

Then, there is a sort of headline to what follows [reading]:

PROCEDURES FOR GIVING EFFECT TO CERTAIN PROVISIONS OF THE CHARTER OF THE INTERNATIONAL TRADE ORGANIZATION BY MEANS OF A GENERAL AGREEMENT ON TARIFFS AND TRADE AMONG THE MEMBERS OF THE PREPARATORY COMMITTEE

Let me read it again, Mr. Brown. [Reading]:

PROCEDURES FOR GIVING EFFECT TO CERTAIN PROVISIONS OF THE CHARTER OF THE INTERNATIONAL TRADE ORGANIZATION BY MEANS OF A GENERAL AGREEMENT ON TARIFFS AND TRADE AMONG THE MEMBERS OF THE PREPARATORY COMMITTEE

That indicates a connection; does it not?

Mr. BROWN. Certainly there is a connection, sir.

Senator MILLIKIN. Yes. Does it not indicate that it is a preliminary measure to a charter?

Mr. BROWN. Two things were going on, Senator, at that time. One of them was the proposal for a charter, and the other was the proposal for trade agreement negotiations. They are obviously closely related, because both of them deal with the field of trade.

Senator MILLIKIN. That is right.

Mr. BROWN. The charter is a considerably broader document than any trade agreement would be. It deals with such problems as commodity agreements and cartels and other things which do not come into the trade agreements set-up at all. But they are related, in the

sense that any charter for an international trade organization would have to deal, if it is to be effective, with the field of commercial policy, and the field of trade barriers. So would a trade agreement if it is to be effective. It cannot have tariff concessions which simply stand isolated, because there are so many other ways, as you have often pointed out, of nullifying the effectiveness of a tariff concession. Therefore, in considering the multilateral agreement which would be the result of the tariff negotiations that were contemplated, we had to consider the subject matter that had been normally in our trade agreements and bring it into harmony with the conditions we were going to face. We had to see whether any changes were necessary to meet current conditions.

In doing so we were, of course, dealing with the same subject matter as would, we hoped, ultimately appear in the charter; and it was not thought sensible to develop two drafts on the same subject matter which would be different. But it was always contemplated, at least by this country, that the multilateral agreement would be an agreement which could stand on its own feet, and would be put into operation on its own merits. Then, if the effort to arrive at agreement on a charter, or, after agreement, to secure ratification by enough countries, were a failure, we would have a trade agreement which was constructive and useful.

Senator MILLIKIN. I expect to demonstrate that you did not intend it to stand on its own feet; that you intended it to be merged into ITO. I expect to demonstrate that it is not an independent thing; that in motive they were all tied together.

Mr. BROWN. I will agree with you right now, Senator, that if the ITO charter is accepted, the provisions of the general agreement will be merged with the provisions of the ITO. The reason for that is that they cover the same subject matter, and it would not be desirable to have two sets of international commitments covering the same subject matter which might differ in greater or less degree.

But I would repeat that the general agreement is so set up that it can stand on its own feet.

Now, I think the other point that you have in mind is that there is an agreement between the parties to the general agreement that if the ITO does not come into effect, there will be a meeting to consult on future action and as to whether the general agreement should or should not be modified. There are countries that feel that the general agreement should be part of a larger picture. Therefore, it was agreed that if the ITO does not come into being there will be consultation to see what should be done with the general agreement.

From our point of view, the general agreement could stand on its own feet, and we would like to have it continued; but not all nations share that view. Therefore, I quite gladly concede both of those points.

Senator MILLIKIN. You do not concede what I stated at the outset today, that this agreement is intended to operate and has the effect of operating as a Judas goat to get this Government into ITO.

Mr. BROWN. No, sir; I do not concede that.

Senator MILLIKIN. I propose to demonstrate that.

The CHAIRMAN. Is that not a matter of argument, Senator?

Senator MILLIKIN. No, sir. I propose to document that and I want it in the record so that others can make argument from it.

The CHAIRMAN. But it seems to me you have all your documents here and it is largely a matter of argument after all.

Senator MILLIKIN. No, that is exactly why I am documenting, Senator; so that I will not have to argue.

As I understood you, Mr. Brown, your plan for this general agreement and your plan for the charter always ran together. Is that right?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now will you refer to page 677 of part 2 of those hearings? You will find a State Department report, or whatever you want to call it.

Mr. BROWN. Page 677, sir?

Senator MILLIKIN. Page 677, right at the very beginning. That incorporates your first proposals, I think, as to an international trade organization. Right?

Mr. BROWN. That is correct.

Senator MILLIKIN. Will you show me where, in there, it envisages this general agreement on tariffs and trade which is now provisionally effective and which was made at Geneva?

Mr. BROWN. Well, Senator, I haven't read this document for 3 years.

On page 680 it says [reading]:

> The proof of any principle is in its application. Therefore, effective preparation for the Conference must include detailed negotiations on trade barriers to commence as soon as possible.

Then it says that in the United States they will be carried out under the Trade Agreements Act, and accordingly we should have negotiations.

Senator MILLIKIN. Yes.

Mr. BROWN. And, as I said, it had always been part of the plan that we should proceed with specific tariff barrier negotiations at the same time that we were trying to work out the broader picture. And we felt that if we could get agreement on specific trade barrier reductions, that was something that would be useful and helpful whatever happened to the larger picture.

Senator MILLIKIN. All right.

Mr. BROWN. At the same time, Senator, as we issued the proposals, we issued the invitations to these other countries to participate in the tariff negotiations.

Senator MILLIKIN. That came about as a result of the London Conference, did it not?

Mr. BROWN. No, sir. We issued the invitations in December 1945, as I remember, and the London Conference did not take place until October 1946.

Senator MILLIKIN. But at the London Conference there was a resolution, which we have already taken notice of, urging the members to get into that kind of an arrangement. Is that correct?

Mr. BROWN. That was so. We felt that a tariff negotiation on a broad scale such as was contemplated was something that was of concern to the United Nations, and should more properly be under the sponsorship of the United Nations than of any one participant. Others felt as we did in that respect.

Senator MILLIKIN. Well, we are not going to have to examine the United Nations Charter here, are we?

Mr. BROWN. I hope not, sir. We may refer to it.

Senator MILLIKIN. Now, going on with this resolution, the headline, as I pointed out, was [reading]:

PROCEDURES FOR GIVING EFFECT TO CERTAIN PROVISIONS OF THE CHARTER OF THE INTERNATIONAL TRADE ORGANIZATION BY MEANS OF A GENERAL AGREEMENT ON TARIFFS AND TRADE AMONG THE MEMBERS OF THE PREPARATORY COMMITTEE

It goes on to say:

The Preparatory Committee has resolved to recommend to the governments concerned that the Committee sponsor traffic and preference negotiations among its members to be held in Geneva commencing 8 April 1947.

In that phrase "traffic and preference," the word should be "tariff," should it not?

Mr. BROWN. I think so.

Senator MILLIKIN. Continuing [reading]:

Upon the completion of these negotiations, the Preparatory Committee would be in a position to complete its formulation of the Charter and approve and recommend it for the consideration of the International Conference on Trade and Employment which would be in a position to consider the Charter in the light of the assurance afforded as to the implementation of the tariff provisions.

Does that not tie the two together pretty effectively?

Mr. BROWN. Certainly. If the Geneva negotiations showed that it was possible to reach a wide area of agreement in respect to specific tariff rates, that was an encouraging factor for the prospects of success in reaching agreements on other matters. It would show that countries took this thing seriously, and meant business and were prepared to reach agreement, and therefore there was a better climate for reaching agreements in other fields.

Senator MILLIKIN. Yes. And by importing into ITO its management out of those who entered into this multilateral tariff negotiation, you further tied the two together, did you not?

Mr. BROWN. But that is not done, sir.

Senator MILLIKIN. Who goes on the tariff committee under ITO?

Mr. BROWN. There is no tariff committee.

Senator MILLIKIN. What is the name of it?

Mr. BROWN. There is no such committee at all.

Senator MILLIKIN. What are the managing committees of the ITO?

Mr. BROWN. The contracting parties.

Senator MILLIKIN. What is that?

Mr. BROWN. The contracting parties.

Senator MILLIKIN. I am not talking about the agreement; I am talking about the charter.

Mr. BROWN. The part of the agreement which is superseded is part 2, not part 3. And part 3 remains after the charter goes into effect. The parties to the tariff agreement are the parties who manage it, so to speak.

Senator MILLIKIN. Yes, I understand that.

Mr. BROWN. But not the ITO.

Senator MILLIKIN. But what is the relation of those parties? What status do those parties take under ITO?

Mr. BROWN. So far as any action on the schedules is concerned, they would act independently, just the way they do now, by consultation if the problem comes up.

Senator MILLIKIN. Are not the original members of ITO those who negotiated the multilateral treaties?

Mr. BROWN. Yes, sir. The countries which participated on the ITO preparatory committee generally were those who negotiated the agreement.

Senator MILLIKIN. The original members of the multilateral agreement become the original members of ITO. There is no exclusion of those. But the original members of ITO then have the choice as to whether they will take in others. Correct?

Mr. BROWN. No, sir. That is not correct.

Senator MILLIKIN. I think I shall demonstrate that that is correct.

Mr. BROWN. The original members of the ITO are those countries that deposit their instruments of acceptance.

Senator MILLIKIN. Yes.

Mr. BROWN. And that, sir, might be a group of countries that were not participating in the GATT at all.

Senator MILLIKIN. My understanding is entirely different, and I expect to demonstrate that. In other words, I expect to demonstrate that by having this original negotiation at Geneva, you held out to the countries of the world the proposition that if they wanted to get into ITO they had better get into GATT.

Mr. BROWN. Senator, I can only refer you to article 71 of the charter, on that point, which says that the original members of the organization [reading]:

shall be those states invited to the United Nations Conference on Trade and Employment whose governments accept this charter in accordance with the provisions of paragraph 1 of Article 103.

That is, the formal deposit of an instrument of acceptance—

by September 30, 1949, or if the Charter shall not have entered into force by that date, those states whose governments agree to bring it into force in accordance with the provisions of Article 2 (b) of Article 103.

Senator MILLIKIN. But do not those who engaged in the GATT proceedings have a special status under ITO? Do you eliminate them entirely?

Mr. BROWN. No, sir. Their only special status is that they do not have the same obligation to enter into further tariff negotiations that the new members would have.

Senator MILLIKIN. Yes. So that makes a very strong inducement to get into those multilateral trade agreements if they want to get in on the cut of the melon.

Mr. BROWN. Well, we would like to have them in the multilateral trade agreement.

Senator MILLIKIN. Yes, and I am suggesting that that was one of the purposes of GATT: to prepare your membership for ITO.

Mr. BROWN. No, sir; that was not. It was a desire to have as wide as possible a selective reduction of tariffs and trade barriers.

Senator MILLIKIN. Now we will come to the next paragraph of this exhibit we have been discussing. [Reading:]

The results of the negotiations among the members of the Preparatory Committee will need to be fitted into the framework of the International Trade Organization after the Charter has been adopted. The negotiations must, therefore, proceed in accordance with the relevant provisions of the charter as already provisionally formulated by the Preparatory Committee.

Does that show connection?

Mr. BROWN. Certainly, sir.

Senator MILLIKIN. Does it not show that GATT is the tail to the ITO dog?

Mr. BROWN. No, sir.

Senator MILLIKIN. Now, give us a little observation on that.

Mr. BROWN. I have already explained, Senator, that it would not be sensible to have two sets of commitments covering the same field, which were different. And therefore it was the desire of the countries involved to have the two consistent.

Senator MILLIKIN. This is not my argument, Mr. Brown. I am reading from the resolution.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I will read it again. [Reading:]

The results of the negotiations among the members of the Preparatory Committee will need to be fitted into the framework of the International Trade Organization after the Charter has been adopted. The negotiations must, therefore, proceed in accordance with the relevant provisions of the Charter as already provisionally formulated by the Preparatory Committee.

Now, does that not have repercussions in your own mind on your statement that you would have come up here with precisely the same general agreement on tariffs and trade had this ITO subject never been heard of?

Mr. BROWN. Senator, I didn't say that it would be word for word the same. It probably might not have been, because there might have been different countries involved. But we would have been here with a general agreement in substantially the form in which it is now, and covering the same subject matter.

Senator MILLIKIN. I suggest that you did not do it. What you did come here with, when you came with the general agreement on tariffs and trade, was something which was evolved under the language which I have quoted to you, to fit into the framework of the International Trade Organization, and that you came here with something which, under this memo which I am reading, required that you conform the relevant provisions of the charter into this general agreement on tariffs and trade.

Mr. BROWN. I can only repeat that the subject matter which had necessarily to be covered in the general agreement also was the subject matter which would be appropriate for inclusion in a charter for international trade organization; and that therefore the two had to be consistent. But it by no means follows from that, in my judgment, that you must have a charter if you are going to have a trade agreement, or that the acceptance of the trade agreement in any way involves a commitment or involves putting into operation an international trade organization.

Senator MILLIKIN. Mr. Brown, it does say that the general agreement on tariffs and trade must conform to the charter. That is exactly what it says.

Mr. BROWN. It says it will need to be fitted into the framework of the charter.

Senator MILLIKIN. Yes.

Mr. BROWN. And the agreement itself says that many of its provisions will be superseded by the charter.

Senator MILLIKIN. And it also says: that it must be in accordance with the relevant provisions of the charter as already provisionally formulated.

Mr. BROWN. Well, the members at the meeting agreed that there were certain principles which govern the negotiations.

Senator MILLIKIN. Let me ask you: Do you challenge the correctness of these words that I am quoting?

Mr. BROWN. No, sir.

Senator MILLIKIN. Do you have any other version of them? Do you have any other interpretation of those words, other than is clear from their clear import?

Mr. BROWN. I would think that a different import and different conclusions might be drawn from the same words.

Senator MILLIKIN. The words are clear to you?

Mr. BROWN. The words are clear to me. And what they mean to me, sir, is that at that meeting we agreed that certain rules and principles would be followed in the negotiations at Geneva, and those rules and principles were that they should be on a selective basis, product by product; that margins of preference would not be increased. In fact, the rules were just the rules that we have always followed in the administration of the Trade Agreements Act. And those also were the rules we hoped to see later on gain wider acceptance as a part of the charter.

Senator MILLIKIN. Then you agree that the negotiations—we are talking about the negotiations for this general agreement on tariffs and trade?

Mr. BROWN. That is correct.

Senator MILLIKIN. That those agreements must proceed in accordance with the relevant provisions of the charter as already provisionally formulated? That is your view of it?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And that was the State Department view of it?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And that was the view adopted by the nations that were working on it?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now we come to the next paragraph. [Reading:]

> An ultimate objective of the charter, elaborated in Article 24, is to bring about the substantial reductions of tariffs and the elimination of tariff preferences. The negotiations among the members of the Preparatory Committee should, therefore, be directed to this end, and every effort should be made to achieve as much progress toward this goal as may be practicable in the circumstances, having regard to the provisions of the charter as a whole.

Do you see a connection there?

Mr. BROWN. To be quite frank with you, Senator, I have not the slightest idea what that last phrase means.

Senator MILLIKIN. Well, the meaning seems clear to me. I am sorry it seems so complex to you. It simply means, as it says, that in what you do here you should have "regard to the provisions of the charter as a whole." What else could it mean?

For the benefit of the Senators that came in late, I have asserted the proposition that this general agreement on tariffs and trade, called GATT, is merely a Judas goat, intended to be such, to wiggle us into ITO, and that there is a definite relationship between the two, that this was intended to serve that purpose; and I am now in process of demonstrating, I hope, by documentation, that the two are inextricably intertwined in that way.

Senator TAFT. May I ask a question?

Obviously they are connected. Why is not the ITO before us now? What is the reason? Why should we not consider both at the same time?

Mr. BROWN. I can't say why the President hasn't sent it up; but the ITO is a very much more comprehensive document than the question involved in the Trade Agreements Act.

Senator TAFT. Are there still negotiations for changes in the charter?

Mr. BROWN. No, sir.

Senator TAFT. How long ago was it fixed?

Mr. BROWN. March 1948.

Senator TAFT. In 1948. Well, why should we not at least have it to consider at the same time we are considering the trade agreements? Do you know?

Mr. BROWN. The reciprocal trade agreements deal with the question of tariff negotiations, and this is a bill which establishes the procedure under which the United States will particpate in those negotiations.

Senator TAFT. Well, so is the ITO, is it not? That also deals with tariffs. It is the same subject. I mean, I do not see the difference, and they are obviously connected, regardless of what your intention was. And I am wondering why we do not have them both before us.

The CHAIRMAN. Senator Taft, you have not been here at all the hearings.

Senator TAFT. No; I apologize.

The CHAIRMAN. The evidence all indicates that this ITO is in the hands of, or in the custody of, the President, and he simply has not sent it down yet. The view has been also expressed that it would be sent down in a few weeks. I believe at one time, perhaps growing out of a misunderstanding of the question, the statement was made that it would be sent down in 2 weeks; but I think it was finally stated that it was expected that it would come down in several weeks.

Senator MILLIKIN. Mr. Brown, let me invite your attention to page 878 of the same report, paragraph numbered 3, at the top of the page [reading]:

> The same considerations and procedures would apply in the case of import tariff preferences—

and that is a reference to the preceding paragraph.

Mr. BROWN. Yes.

Senator MILLIKIN (continues reading):

> it being understood that, in accordance with the principles set forth in Article 14 of the Charter * * * any preferences remaining after the negotiations may not be increased.

Now, is the injunction for the charter to follow the general agreement, or the general agreement to follow the charter?

Mr. BROWN. There was agreement between all of the nations present that preferences would not be increased, and that they would undertake a commitment to that effect. And that commitment also appears in the charter.

Senator MILLIKIN. And here is the injunction to conform what you do in this general agreement to article 14 of the charter. Is that not correct?

Mr. BROWN. Yes, sir. We felt that it was important to gain agreement that during the negotiations preferences would not be increased.

Senator MILLIKIN. Yes.

Mr. BROWN. That was the agreement reached, and I think it was a very desirable one.

Senator MILLIKIN. I am driving to the point that the charter controlled the general agreement rather than the general agreement the charter.

Mr. BROWN. That is the way the language would seem to indicate from this particular document.

Senator MILLIKIN. All right.

Mr. BROWN. But I would say, Senator, from personal knowledge, that that was not necessarily the case, and that if we had not had the charter contemplated we would still desire to have the rule that we would not increase margins of preference. That has been a consistent part of our policy for a long time.

Senator MILLIKIN. We were a party to this memorandum?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. This therefore reflected our view.

Mr. BROWN. We agreed to it, yes.

Senator MILLIKIN. All right.

Paragraph 4, the next paragraph, says [reading]:

> The various observations in this report regarding the negotiation of tariffs and tariff preferences should be read as applying (mutatis mutandis) to the negotiation of state-trading margins under Article 31 of the Charter.

What does that indicate to your mind?

Mr. BROWN. That indicates the same thing as with respect to the rule of preference, that is, that we developed this set of rules to govern these tariff negotiations, which we felt should apply in any tariff negotiations currently proceeding or in tariff proceedings that might later take place under the charter. It happened that they were written down in a document that was then before this committee, the draft charter, and we agreed to follow them in the conduct of the negotiations. And we did follow them.

Senator MILLIKIN. Does it not indicate, does it not also say, in regard to this general subject matter, that the general agreement should conform itself to the charter as distinguished from the charter conforming itself to the general agreement? Does it not say so, expressly?

Mr. BROWN. No, sir. Because the only document in which this thing was written down at the time was the draft charter. It would have been perfectly senseless also to sit down and write the same thing down in another document and label it "General agreement."

Senator MILLIKIN. But it is also senseless to say that the general agreement was an independent document, when I am citing you instance after instance where your direction was, and you agreed to the direction, to conform the general agreement to the charter.

Mr. BROWN. I have agreed, Senator, that the two are closely connected, because they cover the same subject matter. But I still repeat that we consider that the general agreement, the tariff negotiations, and the necessary safeguarding clauses can stand on their own feet, and we hope will, whether or not the charter is brought into effect.

Senator MILLIKIN. Well, maybe so, just for the purpose of discussion. That has no bearing on the motivation of the general agreement

in relation to the charter. It has no bearing on the actual fact as distinguished from your speculation, as to what you would do if you were not confronted with the fact, the actual fact, that you had received instruction after instruction, in a memorandum which you agreed to, which you were promoting, that you should conform your general agreement to the charter and not vice versa, or that, under your own theory, there was to be independence in the general agreement.

Mr. BROWN. I don't know how useful it is to discuss the question of motive, but since it has been raised, I would like to say that it was not the motive of the Department to use this general agreement in any underhanded way, as is implied by the term "Judas goat," to bring this country into the ITO without proper congressional authority.

I would like to make that statement categorically, as an officer who was present at a large part of these negotiations, and I know that I speak for my associates, in making that statement.

Senator MILLIKIN. Mr. Brown, I want it distinctly understood that I am not challenging your own veracity, your own good faith. But I would say that if I had nothing else to bring forward except your conduct—and when I say "you" I mean your Department's conduct, and I mean the President's conduct—if I had nothing else to offer except the way you have jiggled around with this ITO agreement since you have had it, your withholding it from the Congress, when you knew that we had granted a 1-year extension, so that we could consider it in connection with the next extension, I say that that reeks with bad faith.

Mr. BROWN. The Congress will see the ITO and will make up its own mind whether or not it wishes to accept membership in it.

Senator MILLIKIN. Oh, Mr. Brown, you fellows want two wives in this field of trade. You want to make a temporary wife out of this general agreement, and then you hope to make a permanent wife out of the ITO, and if you get the permanent wife, you will surrender the temporary wife. That is good work if you can get it to do.

Mr. BROWN. It all depends on the wife, sir.

Senator MILLIKIN. Now, going on through the memorandum, without the details, you will find item after item, Mr. Brown, where you are giving instructions as to how this general agreement should be fashioned, all to the end point: Conform it to the charter.

Now, do you want me to read all of it, or would you concede that?

Mr. BROWN. I would concede that there are many other provisions in this memorandum which are similar in import to the ones that we have now discussed.

Senator MILLIKIN. Let me give a sort of a summarization which this memorandum itself gives.

On page 881, the paragraph second from the bottom of the page [reading]:

> The agreement—

Now, we are talking about the general agreement on tariffs and trade—

> The agreement should conform in every way to the principles laid down in the charter and should not contain any provision which would prevent the operation of any provision of the charter.

Let me invite your attention, Mr. Brown, to page 70 of part I of those hearings. You will note, starting about the middle of the page,

the junior Senator from Colorado said, when he was questioning Mr. Wilcox [reading]:

The CHAIRMAN. Let me invite your attention to the report of the first session of the Preparatory Committee of the United Nations Conference on Trade and Employment, page 51, toward the bottom of the page on the right hand side, where you set up mechanics for an interim organization of the type contemplated by the charter.

I am now driving to the point that the organization under the agreement is an interim one, or, if you wish, a provisional organization. Has that not been the common description, and is it not now the common description, of the Government, if you wish to call it that, set up by this general agreement on tariffs and trade? It is an interim government, or a provisional government. Now, how much do I have to go into that?

Mr. BROWN. I would like to go into that, Senator.

Senator MILLIKIN. All right. Go into it.

Mr. BROWN. Many of the people who are opposed to the general agreement have said that there is a little ITO set up by the agreement. The fact is that no such organization has been set up. If you have a bilateral agreement between two parties, and a problem arises which one or the other wants to bring up, has a difficulty with the administration, or feels that the other party is not living up to the agreement, or something of that kind, or seeks a modification, the way you handle that is by the two parties sitting down together and discussing the matter. If you have a multilateral agreement, the same process takes place, except that there are more people involved in the consultation. And that is precisely what was done in the general agreement, in the provisions with respect to action by the contracting parties. And that is all that was done.

That did not involve, in my judgment, the establishment of an international organization.

Senator MILLIKIN. That is, I suggest, not responsive to my question.

Mr. BROWN. I am sorry, then, sir. I did not understand your question.

Senator MILLIKIN. I am attempting to develop now that in the viewpoint of the negotiators prior to the time they entered into the multilateral agreement, the governing, if you wish to call them that, contracting parties of the general agreement were regarded as only provisional or interim.

Mr. BROWN. There was once a proposal that there should be some kind of interim commission set-up or interim committee to handle the general agreement. That was abandoned, and the proposal which I have described was adopted.

Senator MILLIKIN. Well, perhaps this was the thing that was abandoned. Coming down there to article 1 of what I was reading from [reading]:

During the life of the Agreement each signatory government shall make effective in respect of each other signatory government, the provisions described below of the Charter for an international trade organization of the United Nations recommended in the report of the Preparatory Committee.

(There would follow a list of the articles to be included in the agreement.)

Now, we are talking about the general agreement on tariffs and trade which later materialized.

2. Functions entrusted to the proposed international trade organization under any of the provisions of the charter incorporated in this agreement—

under any of the provisions of the charter incorporated in this agreement—

by virtue of paragraph 1 of this article shall, pending the establishment of the organization—

pending the establishment of the organization. We are talking about ITO—

be carried out by a provisional international agency consisting of delegates appointed by the signatory governments.

Mr. BROWN. Yes, sir. That is what the document says. And that did not happen.

Senator MILLIKIN. But that was the intention at that time; was it not?

Mr. BROWN. There were many ramifications and changes in this process of negotiation.

Senator MILLIKIN. Now, I shall demonstrate to you, as to what you called this provisional international agency, sometimes called the Interim Committee, the only change was the change in name to "contracting parties." That will develop as we go along here. That was the only change.

Mr. BROWN. I hope we will have a chance to discuss that point.

Senator MILLIKIN. Yes, I hope we will have a chance to discuss it. There is no feature of this that I do not want to discuss.

Mr. BROWN. Sir, we are in complete agreement.

Senator MILLIKIN. Now, on page 73 of part 1, Mr. Wilcox was being questioned. We were discussing much the same thing that you and I have been discussing. He said [reading]:

This does not set up a provisional international organization. It does set up an interim committee of the countries that would be signatory to the agreement.

The CHAIRMAN. Well, is it not provisional in nature? It will expire as soon as you have your charter.

Mr. WILCOX. That is true.

The CHAIRMAN. And it is intended to cover the gap?

Mr. WILCOX. That is true.

The CHAIRMAN. Between the time you conclude your trade agreements and the effective time of the formal organization, is that not correct?

Mr. WILCOX. That is true.

Mr. BROWN. May I comment, Senator?

Senator MILLIKIN. Surely.

Mr. BROWN. You and Mr. Wilcox were discussing the document from which you have just read, and that was not the document which finally emerged, nor is it the document which is now in effect.

Senator MILLIKIN. Well, I claim that it has complete relevancy, if for no other reason than that it shows the historical development and shows what was in your mind when you started on this thing; and, as I shall demonstrate, the intention under your present documents is to have the present arrangement nothing more than provisional. I will demonstrate by the language of the agreement itself. Nothing more than provisional, nothing more than an interim agreement. And you simply changed the name of the fellows who are to do the business to "the contracting parties."

That will all appear.

Now, here is a very significant thing that I would like to invite your attention to, on page 162. The then chairman of the committee was discussing phases of this matter with Mr. Fahy.

What was his official position with the Department at that time?

Mr. BROWN. I think he was the legal adviser.

Senator MILLIKIN. I will read a portion of this:

The CHAIRMAN. Are you assuming the possibility that this Organization may not become a specialized agency of the United Nations?

Mr. FAHY. Yes, if a satisfactory agreement between the United Nations and the Organization is not arrived at; it is an outside possibility.

The CHAIRMAN. Is that the considered viewpoint of the State Department?

Mr. FAHY. The viewpoint of the State Department is that it shall become a part.

The CHAIRMAN. All that you are saying is that it might be handled a different way?

Mr. FAHY. That is right.

The CHAIRMAN. Are you saying that there is even a contingent plan to handle it a different way?

Mr. FAHY. No, sir.

The CHAIRMAN. So you are indulging in a speculation of abstract possibilities?

Mr. FAHY. No, it is more than that, Senator. Such an organization could be established under multilateral trade agreements without the United Nations.

Mr. BROWN. But not without the consent of Congress.

Senator MILLIKIN. He did not say that.

Mr. BROWN. He wasn't asked that, sir.

Senator MILLIKIN. He did not say that, Mr. Brown.

Mr. BROWN. This was a discussion, as I remember it, sir, of whether or not this would be the specialized agency of the United Nations.

Senator MILLIKIN. This, Mr. Brown, that I have in my hand, is a multilateral trade agreement, and you did not bring this in for the consent of Congress.

Mr. BROWN. No, sir.

Senator MILLIKIN. So on the State Department theory, why did you add that thought about the consent of Congress?

Mr. BROWN. I was referring to such an organization, sir, the ITO. I thought that was what you were discussing.

Senator MILLIKIN. What Mr. Fahy said there strikes me as having significant bearing on motivation, when he said we could do this same thing through a multilateral trade agreement.

Mr. BROWN. I respectfully submit, Senator, that the thing which was being discussed at that time was whether or not an International Trade Organization would have to be a specialized organization of the United Nations, and the answer is that it would not have to be, necessarily, although it is expected that it would be.

Senator MILLIKIN. I do not take any exception to that.

Mr. BROWN. Therefore, sir, the point which we are now discussing, and which you raise, I believe was not in Mr. Fahy's mind. I don't believe he was discussing it.

Senator MILLIKIN. The point of significance that I am developing for your attention: You are developing a point of significant interest to yourself, and you have that right, and I want you to have it. The point of significance that I am developing for your attention, sir, is that it was in the mind of Mr. Fahy that in this kind of a multilateral trade agreement, you could duplicate the effects of ITO.

Mr. BROWN. I do not think that was in his mind at all, sir.

Senator MILLIKIN. The words are stated.

Mr. BROWN. I respectfully suggest that they do not mean that.

Senator MILLIKIN. I will read it again, Mr. Brown. I dislike to have questions about the exact language of testimony.

Let us see what he said again.

Mr. BROWN. He says [reading]:

Such an organization could be established under multilateral trade agreements without the United Nations.

All right. It could be established without the United Nations by a multilateral trade agreement.

Senator TAFT. You do not contend multilateral agreements have to be approved by Congress?

Mr. BROWN. No, sir.

Senator MILLIKIN. Over on page 174, Mr. Fahy and I were discussing this provision on what I referred to then as provisional government. From my standpoint I still refer to it that way, even though you call it "the contracting parties." But be that as it may, starting toward the top of the page [reading]:

The CHAIRMAN. We have here a provision, that from the time that we end our reciprocal-trade agreements negotiations at Geneva until this proposed charter comes into effect, there shall be a provisional organization having roughly the same powers that the Organization will have when this proposed charter does come into effect.

Mr. FAHY. It will have some of the same powers.

The CHAIRMAN. Almost all of them. We will go into that.

Let me put my proposition to you in terms of an assumption. Assuming that the proposed provisional Organization has roughly the same powers with all or some of the same sanctions that the main Organization will have when it comes into being, what is the authority for entering into that provisional agreement without the consent of Congress, either of both Houses, or of the Senate, as a treaty?

Under the theory which you have advanced, if the President can do that under the Trade Agreements Act, I suggest to you, sir, that he can do the same thing so far as the main charter is concerned. Why bother with the Congress at all?

Mr. FAHY. Answering your question as you put it, I should say it is very doubtful at the present to do what you suggest. But I think if in Geneva, under the existing legislation the Trade Agreements Act there is entered into aside from the charter which is to be submitted and sent to Congress, a trade agreement presently authorized by acts of Congress, an interim committee, if that trade agreement is multilateral, may be created to assist in the administration of that trade agreement.

The CHAIRMAN. My. Fahy, you are assuming a case that is somewhat different from the exact proposal which is before us. The exact proposal which is before us is to set up a provisional Organization in most respects similar to the ultimate Organization. But there is no proposal to bring that provisional government back to the Congress for any form of consent.

Mr. FAHY. No. It goes out of existence if Congress approves the permanent one.

Mr. Fahy also developed, during this discussion, a theory which you advanced early in the testimony today, that the President has some unspecified source of reserve powers that would enable him to do all or a part of this same thing out of his own powers.

Over on page 238, I had a discussion with Mr. Hawkins of the State Department. What was Mr. Hawkins' position at that time?

Mr. BROWN. He was the counselor of the Embassy at London He had previously been in charge of the economics work for the Department.

Senator MILLIKIN. At the bottom of the page it says [leading]:

one of the two main things that will be done at Geneva is to try to give some substance to article 24 by the negotiation of a multilateral agreement among the countries participating in that meeting by way of implementing, as among

themselves, article 24, and setting the standard of what is meant by substantial reductions.

That is article 24 of the charter that he is talking about. Once more, the charter regulates the general agreement. Over on page 356, starting a little above the middle of the page [reading]:

The CHAIRMAN. Let us assume that we are now in the charter——
Mr. WILCOX. May I complete my answer to your earlier question as to why the matter is approached in a simultaneous negotiation with many countries present?
Also part of the negotiation is the charter.
The CHAIRMAN. The two are tied together?
Mr. WILCOX. That is right.

Senator TAFT. May I ask a question? I just want to get one thing clear in my own mind.

As to GATT, to what extent are we authorizing in this Extension Act matters in that treaty which might be beyond the power of the President at the time they were made? I was thinking, for instance, of this provision. This is just an example which may or may not be a correct one [reading]:

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 indirectly to like products of national origin.

Mr. BROWN. That is boilerplate. That has been in all our trade agreements, Senator.

Senator TAFT. In all the trade agreements?

Mr. BROWN. Yes, Senator. For this reason: that if you have a tariff concession from another country, and then they are immediately free to impose an internal tax which applies only to the imported product——

Senator TAFT. But this is general. It says that we have such taxes. I do not know whether the President has power to eliminate those taxes or not.

Mr. BROWN. That would not require elimination. That is taxes existing at the time the negotiation was entered into. You couldn't increase them. You would not have to eliminate them.

Senator TAFT. It does not say that. It says they shall be exempt. [Reading:]

The products of the territory of any contracting party imported into the territory of any other contracting party shall be exempt from internal taxes——

Mr. BROWN. But will you read on, sir?

Senator TAFT (reading):

and other internal charges of any kind in excess of those applied directly or indirectly to like products of national origin.

There is no relation to the existing rates at all. It is a broad statement that all taxes shall be invalidated.

Mr. BROWN. No, sir. What that says, or what it is intended to say, is that you can't put an internal tax on the imported product on a scheduled item which is higher than the same tax you put on the same domestic product. Because otherwise any country could nullify any tariff provision.

Senator TAFT. But we do it. This attempts to say that we shall not do it. I am only raising this question. Supposing there was such a provision, and there may be others, which we would contend was

beyond the power of the last reciprocal trade act. Do you consider that the passage of this extension act changes the status of any of those things?

Mr. BROWN. No, sir.

Senator TAFT. Are we committing ourselves to the specific provisions of this general agreement on tariffs and trade by passing an extension of the Reciprocal Trade Agreements Act on which you have acted?

Mr. BROWN. If the bill now before this committee were enacted, it would not in any way change the authority that the President has under the previous act.

Senator TAFT. If we know that you have made certain agreements, and without any protest against it, and without any provision against it, we pass an extension of this act, does that not impliedly approve your action in having entered into this particular agreement? That is the thing that bothers me about the extension. That is where it seems to me this general agreement comes into the picture so strongly.

It seems to me that as a practical matter, it certainly will be claimed, and claimed by the State Department that by passing this extension without protesting against specific provisions of this general agreement, we have approved the general agreement.

Do you not think the State Department will claim that?

Mr. BROWN. I had not thought of it, Senator.

The CHAIRMAN. It has not occurred to you to claim that?

Mr. BROWN. No, sir. I am grateful to the Senator for the suggestion.

Senator TAFT. I do not mean to suggest it. I just was wondering what is the relevancy of a tariff made under this thing. But offhand it seems to me to be very relevant. It seems to me the whole basis of the general agreement. And if the general agreement incorporates, as I do not know, provisions of the ITO, are we not impliedly approving the ITO by passing this extension of the reciprocal trade agreements? That is what I am concerned about at the moment.

Mr. BROWN. We do not think so, and would not claim so.

Senator TAFT. Or those provisions of the ITO that are incorporated into the general agreement.

Mr. BROWN. No, sir. We would expect the Congress to make its judgment on all of the provisions of the ITO on their merits, and would not claim that that judgment was prejudged.

Senator TAFT. Is there a copy of the last ITO, as changed at the Habana conference?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. We had arrangements made this morning so that a copy of that will be made available to every member of the committee.

Mr. BROWN. I believe the particular provision to which you referred refers only to the scheduled items.

Senator TAFT. That certainly is not what it says. That might have been what it said originally in individual tariff agreements, but this is a general agreement.

Mr. BROWN. May I read it, Senator?

"The products described in part 1 of the schedule"——

Senator TAFT. What is this?

Mr. BROWN. You were reading from article 2, were you not?

Senator TAFT. I was reading from part 2, article 3. You are reading from where?

Mr. BROWN. I am sorry.

Senator TAFT. That is page 8, part 2, article 3, No. 1.

Mr. BROWN. Yes.

That is designed to prevent a tariff concession from being nullified by having an internal tax applied on the imported article and not on the national product. And that is a provision which has been in our trade agreements for many years. In the cases where we do have such a discriminatory tax, it is taken care of in the agreement by a special note; and under this agreement we are obligated to apply it only to the extent that it conforms to our existing legislation. So that we are not, under this agreement required to change any of those taxes. And we would also be free to change the tax into a preferential tariff, so that the same level of protection would be kept.

Senator TAFT. But certainly the language is sweeping [reading]:

The products of the territory of any contracting party imported into the territory of any other contracting party—

It says they—

shall be exempt from internal taxes and other internal charges of any kind in excess of those applied directly or indirectly to like products of national origin

Now, of course, we apply the coconut-oil tax in it. And that is incorporated in our agreement.

Mr. BROWN. There is an exception to take care of it. But that is a standard provision that has been in agreements ever since the very beginning.

Senator TAFT. Is there anything in the general agreement which cannot stand on its feet without specific authorization by Congress?

Mr. BROWN. Yes, sir; there are some things. And that is the reason that it is applied only to the extent not inconsistent with our existing legislation.

Senator TAFT. You mean there is a general clause?

Mr. BROWN. There are one or two things in here which would require a change in our legislation, and which we would ask the Congress to give us.

Senator TAFT. I will ask about that later.

Senator MILLIKIN. Mr. Brown, what is in the act of 1930 on the taxing matter that the Senator mentioned?

Mr. BROWN. The act of 1930 gives the President authority to negotiate with respect to some internal taxes, such as the tax on copper, for one. I am not sure whether that is in the act of 1930 or whether it is in the Revenue Act of 1932, but it is one or the other.

Senator TAFT. I think he has authority to freeze the taxes, because he has done it, and I assume he has the power to do it. But this seems to me to go much further.

Senator MILLIKIN. Is there any pledge in the act of 1930 that we will not charge a different tax on imported products than we do on domestic products?

Mr. BROWN. Not in the act, no, sir.

Senator MILLIKIN. The agreements that you referred to, then, are the reciprocal-trade agreements which have been negotiated since the Reciprocal Trade Agreements Act.

Mr. BROWN. That is correct, sir. Because you can see quite clearly that if we get a concession from Canada, and they are immediately free to put on an internal tax equivalent to the amount of the reduction they gave us, there would not be any point in getting the reduction.

Senator MILLIKIN. Certainly that raises the point whether under your authority under the Reciprocal Trade Agreements Act you have the power to restrict Congress in the exercise of its jurisdiction over internal taxes.

Senator TAFT. No, I think that power to make the agreement is there. Of course, Congress can break the agreement if it wants to. But I think they have power to make the agreement; not to freeze the internal tax.

Senator MILLIKIN. I suggest that raises the whole question as to what power they have to restrict the action of Congress under its constitutional jurisdiction.

The CHAIRMAN. The committee will recess until 2:30.

Mr. Brown, you will be back here?

Mr. BROWN. Yes, sir.

The CHAIRMAN. If there are any other witnesses waiting, they need not wait to appear.

(Whereupon, at 1:05 p. m., the committee recessed, to reconvene at 2:30 p. m., of the same day.)

AFTERNOON SESSION

(The committee reconvened at 2:30 p. m., upon the expiration of the noon recess.)

The CHAIRMAN. The committee will come to order.

Senator MILLIKIN. Mr. Chairman, during the morning Mr. Brown and I had some discussion as to whether those who joined the general multilateral agreement had any kind of a preferred position in the subsequent ITO organization.

May I invite your attention to page 241 of part 1 of the hearings which this committee had in 1947 on this subject.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Mr. Hawkins was being questioned. Mr. Hawkins has already been identified. He was referring to two groups of participants, one group consisting of those who joined the general agreement, that which is now known as the general agreement. And may we call it the general agreement or the Geneva multilateral agreement, at the same time understanding that we are talking about the same thing? I do not like to go through all that hocus-pocus all the time. And the second group would be those who came in after the Geneva negotiation.

I am now quoting from the record:

The CHAIRMAN. And toward the end of the Geneva conference there will be a certain number of nations who have attempted to comply with paragraph 1.

Paragraph 1 is the general obligation to negotiate trade agreements; is it not?

Mr. HAWKINS. That is right.

The CHAIRMAN. Or let us say, theoretically at least, that they have complied with paragraph 1. That is what you call the original group?

Mr. HAWKINS. That is right.

The CHAIRMAN. They will be identified out of, I assume, the 18 members who will be working on this thing?

Mr. HAWKINS. Yes. It would be either all 18 or such of them as come to agreement.

The CHAIRMAN. So that the over-all figure of 18 will determine the over-all limits of those who can come under the umbrella of original members.

Mr. HAWKINS. That is right.

The CHAIRMAN. Now the other members?

Mr. HAWKINS. They would be members who have adopted the charter, taking all the other obligations regarding quotas and so on, and taken the obligations to negotiate pursuant to paragraph 1, but who have not yet had a chance to do it.

The CHAIRMAN. Now give us a case which will fall within the latter category.

Mr. HAWKINS. If you would like, Senator, just let me give you the reference that ties that group into the charter. It is in article 67, where that tie-in takes place. That agreement that I am speaking of is referred to there.

The CHAIRMAN. Article 67 makes this original group the judges in the matter?

Mr. HAWKINS. That is right. And the agreement referred to, the blank date, is the agreement to be negotiated at Geneva.

Mr. Brown, would you trace out article 67 to the conference?

Mr. BROWN. I was just looking for that, sir. It is not in the present agreement.

Senator MILLIKIN. It is not in it at all?

Mr. BROWN. No, sir. I was just refreshing my memory as to what it was, but I am quite sure it is not in.

Senator MILLIKIN. I looked it up. It is not under 67. That is clear.

Mr. BROWN. No, sir. It is not there.

I said earlier this morning that the only preference, shall we say, that the original group of people have, is that they, having negotiated and having reached agreement, and being members of the GATT don't have to start all over again and negotiate in a way that a country that has not negotiated at all would have to do.

Senator MILLIKIN. Well, those that came in subsequently would, roughly speaking, have to conform to that which had already been done at Geneva among all of those countries. I don't say that that is inflexible. I mean that all of those countries might be willing to make some changes to accommodate a newcomer.

But roughly speaking, the pattern of your concessions has been established, has it not, in the Geneva multilateral trade agreements?

Mr. BROWN. No, sir. Let's take Annecy, for an illustration. The commodities which will be involved in the negotiations at Annecy will, generally speaking, be the commodities which are not in the general agreement now, but of which the new countries are the principal suppliers to the old countries. Therefore, I don't think you could quite say that the present general agreement fixes the pattern of concessions. What you do is that you simply enter into a further tariff negotiation with new countries, involving different products, and arrive at a decision as to what your rate will be. And then that becomes part of the agreement.

Senator MILLIKIN. As to the general provisions in the general agreement?

Mr. BROWN. As to that, you are correct, sir. They will not change.

Senator MILLIKIN. Oh, I can foresee where you might be willing to make some amendment in the general agreement. But with that speculative chance, and a very remote chance, they are more or less strait-jacketed to the Geneva multilateral agreement, the general provisions, are they not? Those who come in later?

Mr. BROWN. Those who come in later would be asked to accept the general provisions of the Geneva agreement.

Senator MILLIKIN. Would you not say that that provided an advantage to the farseeing?

Mr. BROWN. I think so.

Senator MILLIKIN. Yes. And that advantage, in turn would, I suggest, have the effect of doing two things; encouraging people to come into the Geneva agreement, and then coming into the ITO without any handicaps on them; from which you could say, I believe, that the Geneva agreement has a definite relationship to building up the membership of ITO.

Mr. BROWN. No, sir; I don't think so. Because there would be no handicap on someone coming into the ITO who was not a member of the Geneva agreement. He would not be accepting different commitments.

Senator MILLIKIN. Well, but I mean he would not have any voice in the commitments, with the minor possible exception that we mentioned. He would not have any voice in the terms of the agreement under which he was operating. I am talking about the general provisions.

Mr. BROWN. That would be true, now, Senator, with respect to the general agreement, whether or not you have an ITO.

Senator MILLIKIN. Let us concede that. But you do have an ITO. And I spent the morning, I hope not in vain, demonstrating that they were evidently connected.

Mr. BROWN. What I fail to see, Senator, is how the existence of the general agreement would in any way give someone an advantage in coming into the ITO.

Senator MILLIKIN. What it does: It gives those who came into the Geneva agreement the opportunity later to go into ITO, but also to go in, let us say, under terms of their own making, or terms in the making of which they participate, terms which possibly with minor exceptions would be denied to the making of those who came in later. I think you have already said that that was true.

Mr. BROWN. No, sir. Because the ITO provides that the members shall be the nations who were invited to the Habana Conference, and those nations had a voice in developing the provisions of the ITO Charter.

Senator MILLIKIN. I think we are talking about two different things. I understood you to say that those who come in after the Geneva agreement will not have the opportunity to participate in the making of the general terms of that agreement.

Mr. BROWN. That is correct.

Senator MILLIKIN. That is right. So those who come in later will be deprived of that privilege, for whatever it may amount to.

Mr. BROWN. That is correct.

Senator MILLIKIN. Although I conceded that it is possible that the original members might consent to some amendments to accommodate newcomers.

Now, as to the items that are covered by the general agreement, by the Geneva agreement, their benefits, even though the newcomers are not principal suppliers of many of those items, even thousands of them, will be generalized back and forth the same as they are among the original members of the general agreement, will they not?

Mr. BROWN. That is correct.

Senator MILLIKIN. And the burdens.

Mr. BROWN. Yes.

Senator MILLIKIN. Now, this morning I set out to show that the general agreement, the Geneva multilateral trade agreement, was intended to be and was dominated by the terms of the charter; that it was to be the entering wedge into the charter. I produced a lot of documentation, which I think supports the thesis. It either does, or it does not. I contended that the two are inextricably tied up together. I asserted that the failure of the executive department to bring ITO before us so that we could consider them all together represents a breach of good faith, in view of the fact that this committee itself held elaborate hearings on the relations of the two in preparation for consideration by the Congress of the two things together, in view of the fact that the one-year extension last year was limited to that period, so that we could have them both here in time, in connection with the next extension of the Reciprocal Trade Agreement Act.

Now I wish to demonstrate the content of the Geneva general agreement and its relation to parallel or similar provisions of the ITO agreement. And I wish also to demonstrate as we go along the relationship of what has been done to the authority which has been granted to the executive department by the Reciprocal Trade Agreement Act.

In a communication from the State Department, accompanying its delivery of a columnar arrangement which shows the provisions of GATT and the provisions of ITO, I received the following. It is called The General Agreement on Tariffs and Trade and Parallel Provisions of the Havana Charter for an International Trade Organization. [Reading:]

There follows a comparison between the complete text of the General Agreement on Tariffs and Trade (GATT) (showing amendments in force for the United States as from January 1, 1949) and the identical or similar portions of the text of the Havana Charter for an International Trade Organization (ITO).

GATT is being applied provisionally by the 23 countries which negotiated it, in accordance with the Protocol of Provisional Application of the Agreement which provides that Part II of the Agreement (Articles III to XXIII, inclusive) shall be applied to the fullest extent not inconsistent with existing legislation. Under the Protocol any Government is free to withdraw its provisional application on the expiration of 60 days from the day on which written notice of such withdrawal is received by the Secretary General of the United Nations. The Charter for the International Trade Organization is not in effect.

In the comparison which follows the complete text of the GATT is shown, but only parallel provisions of the ITO Charter are reproduced opposite the GATT provisions. The ITO Charter contains also the following chapters and articles not corresponding to any provisions of GATT and not shown in the comparison below:

Chapter I—Purpose and objectives, one article.
Chapter II—Employment and economic activity, 6 articles.
Chapter III—Economic Development and reconstruction, 6 articles in addition to articles 13 and 14, reproduced herein.
Chapter V—Restrictive business practices, 9 articles.
Chapter VII—The International Trade Organization, 20 articles in addition to article 21 reproduced herein.
Chapter IX—General provisions, 2 articles in addition to those shown.
Annex E—List of Portuguese territories referred to in paragraph 2 (b) of article 16.

Annex H—List of territories covered by preferential arrangements among Colombia, Ecuador, and Venezuela referred to in paragraph 2 (e) of article 16.
Annex I—List of territories covered by preferential arrangements among the Republics of Central America, referred to in paragraph 2 (e) of article 16.
Annex J—List of territories covered by preferential arrangements between Argentina and neighboring countries referred to in paragraph 2 (e) of article 16.
Annex L—Relating to Article 78.

NOTE.—In the following comparisons, the provisions of Annex I of GATT and relevant portions of Annex P of the ITO Charter are shown following the articles to which the provisions relate.

Mr. Brown, GATT is, as you term it, provisionally effective at the present time?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. Give us the chronology of the dates that brought it into effect.

Mr. BROWN. As I recollect it, I think eight of the nations signed the protocol of provisional application at Geneva, on the 30th of October 1947. By so doing, they agreed that they would bring the agreement provisionally into effect for themselves on the 1st of January 1948. And that was done.

Senator MILLIKIN. Pardon me?

Mr. BROWN. I say: and that was done.

Since that time, at different dates, which I do not have in my mind, but I could give you if you would like to have them, the other Geneva countries have all taken steps to bring the agreement into effect as far as they are concerned. It will now become provisionally effective for all 23 countries.

Senator MILLIKIN. I believe it would be well to get those dates in. Our own provisional acceptance, with all of the others. I am not making any point of it, but I think the history of it, it would be well to have.

Mr. BROWN. Ours was as of the 1st of January 1948, with respect to the countries which also brought it into effect on that date. And then as each of the other countries came along we gave effect to the concessions which were of principal interest to them, and which we had withheld pending their putting the agreement into effect.

(The following information was subsequently supplied:)

Dates on which the General Agreement on Tariffs and Trade was given provisional application [1]

[In chronological order]

Australia	Jan. 1, 1948
Belgium	Do.
Canada	Do.
Cuba	Do.
France	Do.
Luxemburg	Do.
Netherlands	Do.
United Kingdom	Do.
United States and dependent territories	Do.
Czechoslovakia	Apr. 21, 1948
China	May 22, 1948
Union of South Africa	June 14, 1948

[1] The dates shown are the dates as from which the United States considers that an international obligation to apply the agreement existed. In the following cases provisional application was given to the agreement from earlier dates than those shown, but under circumstances in which the United States considers that no international obligation to do so existed: Australia on November 17, 1947; Newfoundland on January 1, 1948.

Dates on which the General Agreements on Tariffs and Trade was given provisional application—Continued

India	July 9, 1948
Norway	July 11, 1948
Southern Rhodesia	July 12, 1948
Burma	July 30, 1948
Ceylon	Do.
Lebanon	Do.
Brazil	July 31, 1948
New Zealand	Do.
Pakistan	Do.
Syria	Do.
Chile	Mar. 16, 1949
Dependent territories:	
Overseas territories of the Netherlands (Netherlands East Indies, Curacao, Surinam)	Mar. 12, 1948
Newfoundland	Mar. 19, 1948
Mandated Territory of Palestine	Apr. 20, 1948
All United Kingdom territories except Jamaica	July 29, 1948
Belgian Congo	(2)

[2] The Belgian Government has notified the Chairman of the Contracting Parties that the Agreement has been provisionally applied in respect to Belgian Congo since January 1, 1948.

Senator MILLIKIN. As a matter of mechanics, who executed, on our part?

Mr. BROWN. Who signed the agreement?

Senator MILLIKIN. Yes.

Mr. BROWN. I did, sir.

Senator MILLIKIN. You did. And under what instructions did you operate?

Mr. BROWN. I had "full power," that being a formal term. I had full powers from the President to sign the agreement.

Senator MILLIKIN. From the President, direct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. So that you were acting in his behalf, and, of course, as a member of the State Department organization.

I believe it would be a good idea to read into the record the general agreement——

Oh yes, before I come to that: I notice that in your letter of enclosure, you point out that these nations which have provisionally joined this agreement shall apply the articles of GATT, which we shall analyze, to the fullest extent not inconsistent with existing legislation.

Now, who was undertaking to judge that matter, as far as the United States is concerned?

Mr. BROWN. The United States.

Senator MILLIKIN. And who acts for the United States in that matter?

Mr. BROWN. I suppose the principal responsibility would be with the State Department, and we would consult with other agencies of the Government as we do on all these questions.

Senator MILLIKIN. So that you have the situation where you have participated in maing an international agreement, and where you also are the judge of whether it complies with the laws of the United States, and to what extent, and when it does and when it does not. Is that right?

Mr. BROWN. I would certainly want the United States to be the judge of whether or not something complies with its laws.

Senator MILLIKIN. Did it ever occur to you that the Congress might be a good agency for that purpose?

Mr. BROWN. Well, in the last analysis, of course. I thought you were addressing it to the point of which country decides whether it is consistent with our laws.

Senator MILLIKIN. We decide on our own behalf, do we not?

Mr. BROWN. In administering any statute or taking any action, we must be guided by our understanding and the advice of our counsel as to what our laws require.

Senator MILLIKIN. That is right. So that we have aided in the formation of this Geneva agreement. We have promoted the terms which are in it. And during its provisional life, we have reserved the right to pull back from any provision which we might conclude does not square with our domestic legislation. Is that correct?

Mr. BROWN. That is correct.

Senator MILLIKIN. What are those provisions that we have not made effective?

Mr. BROWN. There are a number of them, Senator. One of them, for example, is the provision as to the method of customs valuation. The standards which would be called for by the article in the general agreement are somewhat different from those that we now apply; and that is one of the reasons why we have not undertaken to apply the general agreement in full. Because we could not do so under the legislation which Congress has prescribed.

Senator MILLIKIN. Have we formally disclaimed the operation of that part of the agreement?

Mr. BROWN. If you mean did we file a document with the other nations, saying, "In this particular place, we cannot fully put this into effect,"—no, sir. But those matters were discussed in the course of the negotiations, as was the case with other countries too.

Senator MILLIKIN. There is no formal evidence, then, of what part of the agreement we agree with and what part we do not accept at the present time. Is that right?

Mr. BROWN. That is correct.

Senator MILLIKIN. What steps do you propose to take to bring to the attention of the Congress that part of the Geneva Agreement which you are not prepared to accept?

Mr. BROWN. We propose to ask the Congress for that authority to accept it definitively.

Senator MILLIKIN. How do you propose to do that?

Mr. BROWN. By asking the Congress to make the necessary changes in our legislation.

Senator MILLIKIN. Will someone introduce a bill to that effect?

Mr. BROWN. I would presume so, sir.

Senator MILLIKIN. When do you intend to get at that?

Mr. BROWN. As I have stated before, and as appears from the document to which you have just referred, the provisions of the general agreement and a number of the provisions of the ITO cover the same subject matter. The Congress, when it considers the ITO, will consider whether or not it wishes to accept those provisions; and if it does so, it will, by legislation, make the changes that it approves. That would be one way of making those changes. If the charter should not be accepted, then presumably we would ask the Congress

to make changes in order to permit us to make this agreement definitively effective.

Senator MILLIKIN. That is the same as saying, then, that so far as parts of the Geneva agreement are concerned, your first plan is to have the content determined by the action of Congress on ITO.

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. If the ITO should not be accepted, then you will ask for special legislation, assuming that you continue to want to be in the Geneva multilateral agreement. Is that correct?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. I suggest that that makes another tie between GATT and ITO.

Mr. BROWN. Well, sir, that is inherent in the fact that they both cover a considerable amount of the same subject matter.

Senator MILLIKIN. May I assume, Mr. Brown, that these particular provisions that you think have to come to the special attention of Congress and receive its approval will be pointed out as we go along here? I mean, I am not pressing you to develop them now, but as we go through each of these provisions, it occurred to me that that might be an appropriate time to identify them.

Mr. BROWN. I couldn't give you a complete picture Senator, but I could give you a goodly number of them.

Senator MILLIKIN. If you cannot give a complete picture, I would like to have a statement that does give a complete picture, because it is obviously very important.

Mr. BROWN. I will be glad to do the best I can.

Senator MILLIKIN. Will you do that as we go along?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. With the exception of reciprocal trade agreements under the old systems, prior to the Reciprocal Trade Agreements Act of 1934, and with the exception of conventions or treaties which have contained tariff matters, our tariff rates and regulations have rested on unilateral law of this country, have they not?

Mr. BROWN. That is my understanding, sir.

Senator MILLIKIN. I am not talking about the schedules. But do you have copies of the general provisions of the old-time reciprocal trade agreements?

Mr. BROWN. I do not have them all here. I could provide them.

Senator MILLIKIN. There are not a great number of them are there?

Mr. BROWN. Twenty-nine.

Senator MILLIKIN. Do you know whether their terms generally parallel each other? I am talking about their general terms.

Mr. BROWN. I think, Senator, it would give you a very fair picture if I should give you, for example, the most recent previous Canadian agreement. Because they do vary in minor ways, and as the program developed, new clauses were introduced, such, for example, as the escape clause: so that there are variations in form, although not too material variations in subject matter as between the different agreements.

Senator MILLIKIN. Do you think it would be a good thing if we could get general provisions—I am not asking for all of the details—of our reciprocal trade agreements prior to those authorized by the Reciprocal Trade Agreements Act of 1934?

Mr. BROWN. Oh, prior to '34?

Senator MILLIKIN. Prior to '34, yes. There are not too many.

Mr. BROWN. That I am completely unfamiliar with.

Senator MILLIKIN. You will find there are not many, and it ought to be easy to do. Of course, the conventions and treaties are available in the standard texts on the subject.

Mr. BROWN. I am not sure that I understand what it is that you want.

Senator MILLIKIN. Well, you have made a lot of reciprocal trade agreements under the act of 1934.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I am not talking about those. Prior to that time, at various times, we have made reciprocal trade agreements under old laws. That is what I am talking about; those agreements.

Mr. BROWN. Twenty-two of them, I think.

Senator MILLIKIN. That is right.

The CHAIRMAN. Several were negotiated.

(The following information was subsequently supplied:)

GENERAL PROVISIONS OF EXECUTIVE AGREEMENTS EFFECTIVE PRIOR TO 1934 WHICH CONTAINED RECIPROCAL TARIFF CONCESSIONS

In the following compilation are shown the texts of executive agreements containing reciprocal tariff concessions which were effective at one time or another prior to 1934, except the schedules of concessions.[1] The instruments shown do not include agreements which were never effective or treaties, whether or not ever effective. Also, no portion of any agreement is shown unless the agreement also included tariff concessions. Thus the following are not shown:

Three reciprocity tariff treaties which entered into force, as follows: with Canada in 1854; with Hawaii in 1826; with Cuba in 1902.

Some 22 reciprocity tariff treaties negotiated between 1844 and 1934; 10 under general treaty powers of the President and 12 under section 4 of the Tariff Act of 1897, none of which became effective.

A number of executive agreements on commercial matters concluded under the Tariff Acts of 1922 and 1930, some of which are still in force, but none of which included tariff concessions, and some earlier executive agreements which similarly did not include tariff concessions.

COMMERCIAL ARRANGEMENTS ENTERED INTO UNDER THE AUTHORITY OF SECTION 3 OF THE TARIFF ACT OF 1890

PAPERS RELATING TO THE COMMERCIAL ARRANGEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF BRAZIL. CONCLUDED JANUARY 31, 1891; PROCLAIMED FEBRUARY 5, 1891.

Mr. Blaine to Senhor Mendonça.

DEPARTMENT OF STATE,
Washington, November 3, 1890.

SIR: The Congress of the United States of America, at its late session, enacted a new tariff law, in the third section of which provision was made for the admission into the ports of the United States, free of all duty, whether national, State, or municipal, of the following articles:

* * * [Schedule follows] * * *

In the law providing for the free admission of the foregoing articles, Congress added a section declaring that these remissions of duty were made "with a view to secure reciprocal trade with countries producing those articles;" and that, whenever the President should become satisfied that reciprocal favors were not granted to the products of the United States in the countries referred to, it was made his duty to impose upon the articles above enumerated the rates of duty

[1] An agreement with France, signed March 13-25, 1892, and a supplemental agreement with El Salvador, signed November 29, 1902, are not included.

set forth in the section of the law above cited, of which I have heretofore transmitted you a copy.

The Government of the United States of America being desirous of maintaining with the United States of Brazil such trade relations as shall be reciprocally equal, I should be glad to receive from you an assurance that the Government of Brazil will meet the Government of the United States in a spirit of sincere friendship, and that it may prove to be the happy fortune of you, Mr. Minister, and myself to be instrumental in establishing commercial relations between the two Republics on a permanent basis of reciprocity, profitable alike to both.

To this end I should be glad if you could advise me of the changes which Brazil would be willing to make in her system of tariff duties, in response to the changes proposed in the tariff of the United States which are favorable to your country.

In case the Government of Brazil should see proper to provide for the free admission into its ports of any of the products or manufactures of the United States, or at a specified reduction of the existing rates of duty, your Government may be assured that no export tax, whether national, State, or municipal, will be imposed upon such products and manufactures in the United States.

It may be further understood that while the Government of the United States of America would reserve the right to adopt such laws and regulations as should be found necessary to protect the revenue and prevent fraud in the declarations and proof that the articles herein enumerated, and whose free admission are provided for by the tariff law above cited, are the product or manufacture of Brazil, the laws and regulations to be adopted to that end would place no undue restrictions on the importer, nor impose any additional charges or fees upon the articles imported.

In the happy event of an agreement between the two Governments, the same can be notified to each other and to the world by an official announcement simultaneously issued by the executive departments of the United States of America and the United States of Braxil; and such an agreement can remain in force so long as neither Government shall definitely inform the other of its intention and decision to consider it at an end.

Accept, Mr. Minister, the renewed assurances of my highest consideration.

JAMES G. BLAINE.

Hon. SALVADOR DE MENDONÇA,
Envoy Extraordinary and Minister Plenipotentiary of Brazil, on special mission.

Senhor Mendonça to Mr. Blaine

LEGATION OF THE UNITED STATES OF BRAZIL,
Washington, January 31, 1891.

SIR: I have the honor to acknowledge the receipt of your note of the 3d of November, 1890, in which you inform me of the action of the Congress of the United States of America, at its late session, in the enactment of a new tariff law, in which provision was made for admission into the ports of the United States, free of all duty, whether national, state, or municipal, of the articles enumerated in your note; that said action was taken "with a view to secure reciprocal trade with countries producing those articles;" and that as the Government of the United States of America is desirous of maintaining with the United States of Brazil such trade relations as shall be reciprocally equal you express the hope that you may receive from me the assurance that the Government of the United States of Brazil will meet the Government of the United States of America in a spirit of sincere friendship.

I am pleased to be able to inform you in reply that the United States of Brazil are equally animated by a desire to strengthen and perpetuate the friendly relations which happily exist between them and the United States of America, and to establish the commercial intercourse of the two countries upon a basis of reciprocity and equality; and I heartily participate in the hope which you express, that it may prove to be the happy fortune of you, Mr. Secretary, and myself to be instrumental in establishing commercial relations between the two Republics on a permanent basis of mutual profit.

It is therefore, a matter of great gratification to me to be able to communicate to you the fact that the Government of the United States of Brazil, in due reciprocity for, and in consideration of, the admission into the ports of the United States of

America, free of all duty, whether national, state, or municipal, of the articles enumerated in your note of the 3d of November, 1890, has, by legal enactment, authorized the admission into all the established ports of entry of Brazil, on and after the 1st of April, 1891, free of all duty, whether national, state, or municipal. of the articles or merchandise named in the following schedule, provided that the same be the product or manufacture of the United States of America:

* * * [Schedules follow] * * *

I inclose herewith tables compiled from the latest published statistics, showing the state of trade of Brazil in the articles enumerated in the foregoing schedules.

The Government of the United States of Brazil has also provided that no increase shall be made in the export tax now in force, whether national, state, or municipal, on the articles enumerated in your note of the 3d of November, 1890, nor upon any article, the product of Brazil, now on the free list of the tariff of the United States of America so long as such article continues to be admitted free of duty; and it is further provided that if any reduction is made by Brazil in the export duty on any of its products, such reduction shall immediately apply to said products when exported to the United States of America.

The Government of Brazil reserves the right to adopt the necessary laws and regulations to protect its revenue and prevent fraud in the declarations and proof that the articles enumerated in the foregoing schedules are the product or manufacture of the United States of America; but the laws and regulations to be adopted shall place no undue restrictions upon the importer, nor impose any additional charges or fees therefor upon the articles imported.

I confidently hope that the foregoing action of my Government will satisfy the President of the United States of America that the United States of Brazil have met the liberal legislation of the Congress of the United States in a spirit of sincere freiendship and reciprocity; and, in that happy event, I shall hold myself ready to agree with you upon a time when an official announcement of this legislation may be simultaneously issued by the executive departments of the two Governments, with the understanding that the commercial arrangement thus put in operation shall remain in force so long as neither Government shall definitely, at least three months in advance, inform the other of its intention and decision to consider it at an end at the expiration of the time indicated: provided, however, that the termination of the commercial arrangement shall begin to take effect either on the 1st day of January or on the 1st day of July.

I improve the opportunity to renew the assurance of my highest consideration.

SALVADOR DE MENDONÇA.

Hon. JAMES G. BLAINE,
Secretary of State of the United States of America.

Mr. Blaine to Senhor Mendonça

DEPARTMENT OF STATE,
Washington, January 31, 1891.

SIR: I have great pleasure in acknowledging the receipt of your note of this date, in which you inform me that the Government of the United States of Brazil, in due reciprocity for, and in consideration of, the free admission into the ports of the United States of the products of Brazil enumerated in my note of November 3, 1890, has by legal enactment authorized the free or privileged admission, on and after the 1st of April, 1891, of the articles, the product or manufacture of the United States of America, named in your note; that your Government has further provided that no increase shall be made in the export tax on the articles admitted free into the United States, and that all future reduction in the export tax shall immediately apply to such articles when sent to the United States, and that the laws and regulations adopted by Brazil to prevent fraud shall not impose any additional charges or fees therefor on the articles named in your note, imported from the United States.

I am directed by the President to state to you that he accepts this action of the Government of Brazil, in granting exemption of duties to the products of the United States, as a due reciprocity for the action of the Congress of the United States, as set forth in my note to you of November 3, 1890, it being noted that the date fixed by Congress for the free admission of sugars is the 1st day of April, 1891.

I shall be pleased to meet you at the Department of State at your early convenience to agree upon the time and manner of making public announcement of this commercial arrangement, which it is understood shall remain in force so long as neither Government shall definitely, at least three months in advance, inform the other of its intention and decision to consider it at an end at the expiration of the time indicated; provided, however, that the termination of the commercial arrangement shall begin to take effect either on the 1st day of January or the 1st day of July.

Congratulating you, Mr. Minister, on the valuable service which you have rendered in bringing about this important and satisfactory result, I renew to you the assurance of my highest consideration.

JAMES G. BLAINE.

Hon. SALVADOR DE MENDONÇA,
Envoy Extraordinary and Minister Plenipotentiary of Brazil.

PAPERS RELATING TO THE COMMERCIAL ARRANGEMENT BETWEEN THE UNITED STATES AND SPAIN FOR CUBA AND PUERTO RICO. CONCLUDED JUNE 16, 1891; PROCLAIMED AUGUST 1, 1891

Mr. Blaine to Señor Suarez Guanes

DEPARTMENT OF STATE,
Washington, January 3, 1891.

SIR: I have the honor to bring to your attention the fact that the Congress of the United States, at its last session, enacted a law, of which a copy is inclosed herewith, in which provision was made for the admission into the United States, free of all duty, of the following articles:

* * * [Schedule follows.] * * *

In section 3 of this law it is declared that these remissions of duty were made "with a view to secure reciprocal trade with countries producing" those articles; and it is provided that, whenever the President shall be satisfied that reciprocal favors are not granted to the products of the United States in the countries referred to, "he shall have the power and it shall be his duty" to impose upon the articles above enumerated, the products of the countries concerned, the rates of duty set forth in section 3.

The Government of the United States being earnestly desirous of maintaining with Spain and its colonies such trade relations as shall be reciprocally equal and mutually advantageous, I am directed by the President to request you to bring the above-mentioned provisions of this act of Congress to the attention of your Government, and to express the hope that you may be empowered to enter with me upon the consideration of the subject, with a view to the adjustment of the commercial relations between the two countries on a permanent basis of reciprocity profitable alike to both.

Accept, sir, the renewed assurances of my highest consideration.

JAMES G. BLAINE.

Señor DON MIGUEL SUAREZ GUANES, *Etc.*

Señor Suarez Guanes to Mr. Blaine.

LEGATION OF SPAIN AT WASHINGTON,
Washington, June 8, 1891.

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to inform the honorable Secretary of State, in reply to his note of the 3d of January last, that his Government, desirous of strengthening and increasing the commercial relations between Spain and the United States of North America to the benefit of both countries, and being convinced that the community and harmony of their respective interests counsel that said relations should be stimulated and favored for the greater development and encouragement of their commerce, has decided to respond, as promptly and as fully as its national interests and international engagements permit, to the legislation of the Congress of the United States, as set forth in the note of January 3 above mentioned.

He has therefore been instructed to inform the honorable Secretary of State that, in view of their having been decreed the free admisssion into the United States,

from the 1st of April of the present year, of sugars, molasses, coffee, tea, and untanned hides, as a provisional measure, until a definitive arrangement between the United States and Spain shall be put in operation, and in reciprocity and compensation for the admission into the ports of the Union, free of all national, State, and municipal duties, of the products of Cuba and Puerto Rico enumerated in the aforesaid note of the 3d of January last, the Government of Her Majesty is prepared to make use in part of the power granted to it by the law of the 22d of July, 1884, authorizing the admission into all the established ports of Cuba and Puerto Rico, from the 1st day of September, 1891, of the articles of merchandise named in the transitory schedule annexed hereto: *Provided*, That the duties of the third column of the tariffs of the said islands, to which reference is made in said schedule, are understood to be those stated in the tariffs which are now in force, with the additional duties authorized by laws and orders previous to this date.

The necessary condition is imposed that said merchandise shall be the product or manufacture of the United States, and proceed directly from the ports of these States in the manner stated in the annexed schedule.

As provided in the same schedule, the benefit of the reduction of duties granted to American wheat and wheat flour, on their introduction into the ports of Cuba and Puerto Rico, shall not take effect until the 1st day of January, 1892.

Flour shall be excluded from said reduction, and shall not therefore share in it, which on its departure from the ports of the Union, destined to those of Cuba and Puerto Rico, may be favored with drawbacks or other tariff advantages.

The Government of Spain gives the assurance that during the existence of this transitory arrangement, no export or port duty, whether national or provincial, shall be imposed on the articles or merchandise exported from Cuba and Puerto Rico to the United States, and which the later nation admits free of duties.

Respecting the North American articles of food, drink, and fuel specified in the annexed transitory schedule, which are imported into said islands, the Government of Spain, without restricting the rights of the municipal councils, will seek to have the latter impose upon them no greater municipal duties than those which national products pay, and that they shall not materially increase the price of said articles.

The Spanish Government reserves the right to propose the laws and adopt the regulations necessary to protect the customs revenues in said islands, to prevent fraud and require proof of the North American nationality of the articles enumerated in the annexed schedule. These laws and regulations shall not be unduly restrictive, nor create additional charges therefor, nor impose new duties on the articles imported.

What has just been stated will convince the President that the Government of Her Majesty responds to the legislation of the Congress of the United States in a spirit of sincere friendship and reciprocity, and in this firm conviction, it has authorized the undersigned to conclude with that of the United States the proper executive international agreement, which shall begin to take effect on the 1st day of September, 1891, and also to agree with the honorable Secretary of State on the day when it shall be simultaneously and officially published in both countries, with the understanding that this commercial arrangement, put in operation under the clauses above stated, shall remain in force so long as it shall not be modified by the mutual agreement of the executive power of the two countries, always reserving the respective right of the Cortes of Spain and of the Congress of the United States to modify or repeal it whenever they may think proper.

The undersigned minister gladly improves this opportunity to reiterate to the honorable Secretary of State the assurances of his highest consideration.

M. SUAREZ GUANES.

Hon. JAMES G. BLAINE,
Secretary of State of the United States.

Mr. Blaine to Señor Suarez Guanes.

DEPARTMENT OF STATE,
Washington, June 10, 1891.

SIR: I have great pleasure in acknowledging the receipt of your note of the 8th instant, in which you inform me that, as a provisional measure, until a more

definitive arrangement shall be put in operation, the Government of Spain, in reciprocity and compensation for the admission into the ports of the United States, free from all national, State, or municipal duties, of the products of the Spanish islands of Cuba and Porto Rico enumerated in my note of January 3 last, is prepared by due legal enactment to authorize the free or favored admission into said islands, from September 1 next, of the articles proceeding directly from, and the product or manufacture of, the United States of America, named in the schedule attached to your note; that your Government gives the assurance that no export or port tax, whether national or provincial, shall be imposed on the articles admitted free into the United States; that it will seek to have no greater municipal duties than those paid by national products imposed on the articles named in said schedule, and that said duties shall not materially increase the price of said articles; and that the laws and regulations which may be adopted by Spain to prevent fraud shall not impose any additional charges therefor on the articles named in said schedule imported from the United States.

I am directed by the President to state to you that, as a provisional measure, he accepts this action of the Government of Spain, in proposing to grant exemption of duties to the products of the United States, as a due reciprocity for the action of the Congress of the United States, as set forth in my note to you of January 3 last.

I am also plesed to reciprocate the assurance contained in your note, and to state that no export tax, whether national, State, or municipal, can or will be imposed in the United States upon the products and manufactures enumerated in the schedule attached to your note of the 8th instant.

It may be further understood that, while the Government of the United States reserves the right to adopt such laws and regulations as may be found necessary to protect the revenue and prevent fraud in the declarations and proof that the articles enumerated in my note of January 3 last, and whose free admission is provided for by the tariff law therein cited, are the product or manufacture of the islands of Cuba and Porto Rico, the laws and regulations to be adopted to that end shall place no undue restrictions on the importer nor impose any additional charges therefor upon the articles imported.

It is likewise understood that wheat flour shall not share in the specified reduction of duties which begins to take effect January 1, 1892, which, on its exportation from the United States, may have been favored with any tariff advantages in the nature of drawbacks.

I have, therefore, to request that you will be so kind as to call at the Department of State at your early convenience to agree upon the time and manner of making public announcement of this transitory commercial arrangement, which, it is understood, shall remain in force so long as it shall not be modified by the mutual agreement of the executive power of the two countries, always reserving the respective right of the Congress of the United States and of the Cortes of Spain to modify or repeal said arrangement whenever they may think proper.

Accept, sir, the renewed assurances of my highest consideration.

JAMES G. BLAINE.

Señor Don MIGUEL SUAREZ GUANES, *Etc.*

Señor Suarez Guanes to Mr. Blaine.

LEGATION OF SPAIN AT WASHINGTON,
June 12, 1891.

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to inform the honorable Secretary of State that, a transitory commercial arrangement having been agreed upon between the Government of His Majesty and that of the United States of North America, which is to go into effect on the 1st day of September, 1891, and it being the desire of both Governments that said arrangement should have a definitive character from the time when Spain shall be free from her international engagements, the Government of His Majesty, in reciprocity and compensation for the admission into the ports of the United States of America, free of all national, State, and municipal duties, of the products of Cuba and Porto Rico enumerated in the note of the honorable Secretary of State of the 3d of January of the present year, is prepared to make full use of the power granted to it by the law of the 22d of July, 1884, authorizing the admission into all the established ports of said islands, from the 1st of July, 1892, of the articles or merchandise named in the schedules annexed to this note, designated by the letters A, B, C, and D; provided that the duties of the

third column of the tariffs of the islands of Cuba and Porto Rico, to which reference is made in said schedules, are understood to be those stated in the tariffs which are now in force, with the additional duties authorized by laws and orders previous to this date.

A necessary condition is imposed that said merchandise shall be the product or manufacture of the United States, and proceed directly from the ports of the Union in the manner stated in the annexed schedules.

The Government of Spain gives the assurance that, during the existence of the arrangement, no export or port duty, whether national or provincial, shall be imposed on the articles or merchandise which are exported from Cuba and Porto Rico to the United States, and which the latter nation admits free of duties.

Respecting the North American articles of food, drink, and fuel specified in the annexed schedules which are imported into said islands, the Government of His Majesty, without restricting the rights of the municipal councils, will seek to have the latter impose upon them no greater municipal taxes than those which national products pay, and that they shall not materially increase the price of said articles.

The Government of His Majesty reserves the right to propose the laws and adopt the regulations necessary to protect the customs revenues in the islands of Cuba and Puerto Rico, to prevent fraud and require proof of the North American nationality of the articles enumerated in the annexed schedules. These laws shall not be unduly restrictive, nor create additional charges therefor, nor impose new duties on the articles imported.

A repertory shall be compiled to regulate the better application of the annexed schedules in the custom-houses of Cuba and Puerto Rico, and as a basis for the classification of articles the repertory attached to the unratified treaty of October 18, 1884, shall be taken with such modifications as the present schedules require.

Flour which, on its departure from the ports of the Union for those of Cuba and Puerto Rico, is favored with drawbacks or other tariff advantages is excluded from the reduction of duties conceded in the annexed schedules to American wheat and wheat flour, and shall not share in said favor.

It is to be understood that when this definite commercial arrangement goes into effect, the transitory one shall terminate and be of no further force.

The definite arrangement thus put in operation shall remain in force so long as it shall not be modified by the mutual agreement of the executive power of the two countries, always reserving the respective right of the Cortes of Spain and of the Congress of the United States to modify or repeal said arrangement whenever they may think proper.

The Governments of the two nations shall fix the day when this definitive arrangement shall be simultaneously and officially published in both countries.

In proposing in the name of his Government the project of the definitive commercial arrangement in the terms which he has just transcribed, it remains for the undersigned to comply with the special instruction which his Government has likewise given him, to submit to the consideration of the honorable Secretary of State the serious injuries which have been occasioned to the tobacco productions in the islands of Cuba and Puerto Rico, in consequence of the increase of duties imposed on said article by the new tariff law of the United States, cherishing the hope that, while it may not be possible to diminish them at once in the present arrangement, because the President of the Union has not the power to do so, the latter will exercise his constitutional powers in order to recommend to Congress the said reduction of duties on the tobacco of Cuba and Puerto Rico.

These measures will duly complete the friendly character of the commercial relations between the two countries, for which purpose the Spanish Government has not hesitated to facilitate, as far as was within its power, the negotiation of the present reciprocity arrangement.

The undersigned minister hopes, therefore, that the President will comply with these proper desires of the Government of His Majesty, and that the Secretary of State will respond to the same in a separate note, if possible, at the time he replies to the proposition for the arrangement contained in the present note, and he gladly improves this opportunity to repeat the assurances of his highest consideration.

M. SUAREZ GUANES.

Hon. JAMES G. BLAINE,
Secretary of State of the United States of America.

Mr. Blaine to Señor Suarez Guanes.

DEPARTMENT OF STATE,
Washington, June 16, 1891.

SIR: Having already had the honor to enter with you upon a transitory commercial arrangement between the United States and the islands of Cuba and Puerto Rico, to go into effect September 1 next, I now have the pleasure to acknowledge the receipt of your note of the 12th instant, in which you inform me that, with the object of giving a definitive character to said commercial arrangement, the Government of Spain, in reciprocity and compensation for the admission into the ports of the United States of America, free from all national, State, and municipal duties, of the products of Cuba and Puerto Rico enumerated in my note of January 3 last, is prepared by due legal enactment to authorize the admission into said islands, from July 1, 1892, of the articles or merchandise named in the schedules annexed to your note of the 12th instant, on the conditions stated in said note and schedules; that your Government gives the assurance that no export or port tax, whether national of provincial, shall be imposed on the articles admitted free into the United States; that it will seek to have no greater municipal duties than those paid by national products imposed on the articles named in said schedules, and that said duties shall not materially increase the price of said articles; and that the laws and regulations which may be adopted by Spain to prevent fraud shall not impose any additional charges therefor on the articles named in said schedules imported from the United States.

I am directed by the President to state that he accepts this action of the Government of Spain, in proposing to grant exemption of duties to the products of the United States, as a due reciprocity for the action of the Congress of the United States, as set forth in my note to you of January 3 last.

I am also pleased to reciprocate the assurance contained in your note, and to state that no export tax, whether national, State, or municipal, can or will be imposed in the United States upon the products and manufactures enumerated in the schedules attached to your note of the 12th instant.

It may be further understood that, while the Government of the United States reserves the right to adopt such laws and regulations as may be found necessary to protect the revenue and prevent fraud in the declarations and proof that the articles enumerated in my note of January 3 last, and whose free admission is provided for by the tariff law therein cited, are the product or manufacture of the islands of Cuba and Puerto Rico, the laws and regulations to be adopted to that end shall place no undue restriction on the importer, nor impose any additional charges therefor upon the articles imported.

It is likewise understood that wheat flour shall not share in the reduction of duties specified in Schedule B attached to your note of the 12th instant, which, on its exportation from the United States, may have been favored with any tariff advantages in the nature of drawbacks.

It is agreed that a repertory shall be compiled before the present commercial arrangement goes into force, under the joint supervision of the Department of State and the Spanish legation in Washington, to regulate the better application of the said schedules in the custom-houses of Cuba and Puerto Rico upon the basis stated in your note.

It is also agreed that, when this definitive commercial arrangement goes into effect, the transitory arrangement to be put in operation September 1 next shall terminate and be of no further force.

I have, therefore, to request that you will call at the Department of State at your early convenience to agree upon the time and manner of making public announcement of this definitive commercial arrangement, which, it is understood, shall remain in force so long as it shall not be modified by the mutual agreement of the executive power of the two countries, always reserving the respective right of the Congress of the United States and of the Cortes of Spain to modify or repeal said arrangement whenever they may think proper.

In conclusion, I am directed by the President to state that the suggestion contained in your note respecting tobacco shall have his careful consideration, and that it shall be made the subject of a separate note.

I improve the opportunity to offer to you, sir, the renewed assurance of my highest consideration.

JAMES G. BLAINE.

Señor Don MIGUEL SUAREZ GUANES, *Etc.*

PAPERS RELATING TO THE COMMERCIAL ARRANGEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE DOMINICAN REPUBLIC, CONCLUDED JUNE 4, 1891; PROCLAIMED AUGUST 1, 1891

Señor Galvan to Mr. Foster

LEGATION OF THE DOMINICAN REPUBLIC,
Washington, June 4, 1891.

MR. MINISTER: The Government of the Dominican Republic having been officially informed of the action of the Congress of the United States of America in the enactment of the tariff law of October 1, 1890, authorizing the admission through the custom-houses of said United States, free of all duty, of the articles enumerated in section 3 of said law, with a view to secure reciprocal trade with countries producing the articles named, I am pleased to be able to state to you that the Dominican Government, likewise animated by the desire to maintain the relations of sincere friendship which happily exist between the Dominican Republic and the United States of America, and especially recognizing that the close proximity of the two countries suggests the good policy of establishing the reciprocal commerce upon such a basis as shall encourage the development of trade and strengthen friendly feeling between their respective peoples, has resolved to respond in the most liberal manner within its power to the legislation above referred to of the Congress of the United States.

I have, therefore, the honor to inform you that the Government of the Dominican Republic, in reciprocity for, and in consideration of, the free admission into all the ports of the United States exempt from the payment of duties, whether national, State, or municipal, of the products of the Dominican Republic enumerated in section 3 of said law, is prepared, by virtue of the legislative resolution of the National Congress of March 23 last, to decree the admission into all the established ports of entry of the Dominican Republic, on and after the 1st day of September, 1891, free of all customs duty and any other national or port charges, of the articles or merchandise named in the following Schedule A, provided that the said articles or merchandise are exported directly from, and are the product of manufacture of, the United States of America:

* * * [Schedule follows] * * *

It is understood that the packages or coverings in which the articles named in the foregoing schedule are imported shall be free of duty if they are usual and proper for the purpose.

The Government of the Dominican Republic is, further, prepared to decree the admission into all the established ports of entry of the said Republic, at a reduction of 25 per cent of the duty designated in the customs tariff now in force or which may hereafter be adopted in said Republic (which reduction shall likewise apply to all duties which are imposed on these articles by authority of the National Government), of the articles or merchandise named in the following Schedule B, provided that said articles or merchandise are exported directly from, and are the product or manufacture of, the United States of America:

* * * [Schedule follows] * * *

The Government of the Dominican Republic gives the assurance that no increase whatever shall be made in the export duties of any character now in force on the articles enumerated in section 3 of the said tariff law of the United States, nor upon any article, the product of said Republic, now on the free list of the tariff of said United States, so long as such article continues to be admitted free of duty; and, further, that if the Dominican Republic makes any reduction in the export duty on any of its products, such reduction shall immediately apply to said products when exported to the United States.

The Government of the Dominican Republic also gives the assurance that no greater municipal taxes than those now in force, nor than those levied upon national products, shall be imposed upon articles imported from the United States.

The Government of the Dominican Republic reserves the right to adopt the necessary laws and regulations to protect its revenue and prevent fraud in the declarations and proof that the articles enumerated in the foregoing schedules are exported directly from, and are the product or manufacture of, the United States; but the laws and regulations so be adopted shall place no undue restrictions upon the importer, nor occasion any additional charges or fees therefor upon the articles imported.

For the better application of the foregoing schedules by the custom-houses of the Dominican Republic, it would be mutually convenient that a repertory or classification of articles or merchandise should be compiled before the present commercial arrangement goes into operation, under the joint supervision of the legation of the Dominican Republic and the Department of State in Washington.

I have confidence that the President of the United States will duly regard the present proof that the Government of the Dominican Republic has met the legislation of the Congress of the United States in a spirit of friendly accord and wise reciprocity; and, in that event, I shall hold myself ready to agree with you upon a time when the decree of the Dominican Republic and the proclamation of the President of the United States may be simultaneously and officially published in both countries, with the understanding that the commercial arrangement, when it shall have been thus promulgated, shall remain in force so long as it shall not be modified by the legislative action of either Government or by mutual agreement of the executive power of the two countries.

Be so kind as to accept. Mr. Minister, the assurances of my most distinguished consideration.

MANUEL DE J. GALVAN.

Hon. JOHN W. FOSTER,
Special Minister Plenipotentiary of the United States of America, Washington.

Mr. Foster to Señor Galvan.

DEPARTMENT OF STATE,
Washington, June 4, 1891.

SIR: I have great pleasure in acknowledging the receipt of your note of this date, in which you inform me that the Government of the Dominican Republic, in due reciprocity for, and in consideration of, the admission into the ports of the United States free of all duty, whether national, State, or municipal, of the products of said Republic enumerated in section 3 of the tariff law of the Congress of the United States of October 1, 1890, is prepared by legal enactment to authorize the free or privileged admission, on and after the 1st day of September, 1891, of the articles directly imported from, and the product or manufacture of, the United States of America named in your note; that your Government gives the assurance that no increase shall be made in the export tax on the articles admitted free into the United States; that all future reduction in the export tax shall immediately apply to such articles when sent to the United States; that no greater municipal taxes than those now in force, nor than those which national products pay, shall be imposed on articles imported from said States; and that the laws and regulations adopted by the Dominican Republic to prevent fraud shall not impose any additional charges or fees therefor on the articles named in your note imported from the United States.

I am directed by the President to state to you that he accepts this action of the Government of the Dominican Republic, in granting exemption of duties to the products and manufactures of the United States, as a due reciprocity for the action of the Congress of the United States, as contained in section 3 of the tariff law above cited.

I am also pleased to reciprocate the assurances contained in your note, and to state that no export tax, whether national, State, or municipal, can or will be imposed in the United States upon the products or manufactures enumerated in schedules A and B of your note of this date sent to San Domingo.

It may be further understood that, while the Government of the United States reserves the right to adopt the laws and regulations necessary to protect its revenue and prevent fraud in the declarations and proof that the articles enumerated in section 3 of the law cited are the product or manufacture of San Domingo, the laws and regulations to be adopted shall place no undue restrictions upon the importer, nor impose any additional charges or fees upon the articles imported.

It is also understood that, for the better application of said schedules in the custom-houses of San Domingo, a repertory shall be compiled before the present commercial arrangement goes into operation, under the joint supervision of the Department of State and the Dominican Legation in Washington.

I have, therefore, to request that you will meet me at the Department of State at your early convenience, to agree upon the time and manner of making public announcement of this commercial arrangement, which, it is understood, shall

remain in force so long as it shall not be modified by the legislation of either Government or by the mutual agreement of the executive power of the two countries.

I improve the occasion, Mr. Minister, to convey to you the assurances of my high consideration and esteem.

JOHN W. FOSTER,
Special Plenipotentiary for the United States.

Hon. MANUEL DE J. GALVAN,
Envoy Extraordinary and Minister Plenipotentiary of the Dominican Republic.

AGREEMENT AS TO DECREE OF JULY 4, 1887.

Señor Galvan to Mr. Foster.

[Translation]

LEGATION OF THE DOMINICAN REPUBLIC,
Washington, June 4, 1891.

Mr. MINISTER. In confirmation of the assurances, given in advance, during the course of the negotiations which resulted in the commercial arrangement concluded this day, I now have the honor to inform you that, in consideration of the aforesaid arrangement, and as one of the conditions thereof, the Government of the Dominican Republic pledges itself to endeavor, during the next legislative session, to secure the repeal of the law of June 26, which was promulgated July 4, 1887, declaring the importation into the Republic of the articles mentioned in the said law to be free or subject to a reduced duty; and that the Executive will take the initiative, as he is privileged to do by the constitution, to the end that the effects of the aforesaid law cease on the 31st day of March, 1892, or sooner if possible, so far as they relate to the said articles, and to the end that the articles in question be subjected to the tax required by the tariff and to the payment of import duties on and after the day aforesaid; it being, however, understood and stipulated that all the articles enumerated in Schedules A and B, referred to in my note of this date, that shall have been produced in, and imported directly from, the United States shall be exempt from the payment of such duties, as provided in the aforementioned commercial arrangement.

It is further understood that, if the above-mentioned law of July 4, 1887, shall not be repealed, as above stipulated, before the 31st day of March, 1892, the United States Government shall have the right to declare the aforesaid commercial arrangement annulled at any time subsequent to the date designated, if it shall think proper so to do.

I reiterate to you, Mr. Minister, the assurances of the consideration and respect with which I am your most obedient and faithful servant,

MANUEL DE J. GALVAN.

Hon. JOHN W. FOSTER,
Special Minister Plenipotentiary of the United States of America,
Washington, D. C.

DECREE OF THE NATIONAL CONGRESS OF JULY 4, 1887.

[Translation.]

ART. 1. From the date of this decree until the 31st of December, 1890, and from the latter date until the enactment of another decree repealing the present, the following-named articles shall be exempted in this Republic from all fiscal duty, to wit:

All kinds of machinery to be used in the sugar and other estates and in the agricultural and industrial establishments, and the pieces accessory or sent extra to replace those worn out or damaged; crude tallow and oil, when, upon careful investigation at the custom house, it is ascertained that it is to be used exclusively for the said machinery; phosphatic and ammoniacal guanos, zinc, galvanized and corrugated iron, hand and steam water pumps, windmills; hogshead staves, heads, and shooks; box shooks and bags for sugar, rails and spikes, railroad cars, axles, and boxes for carts and wagons, barbed wire for fences, coal; plows, hoes, axes, spades, hand rakes, short machetes for agricultural purposes, and, generally, all instruments exclusively applicable to the cultivation of the soil or the clearing of forests.

The exemption provided for in this article for such pieces as are considered accessory to engines or machinery does not apply to screws, screw nuts, nails, bars, or sheets of iron or of other metals which can be used for other purposes.

ART. 2. The following-named articles, by whomsoever imported, shall be subject only to the payment of 10 per cent ad valorem, to wit: Boards, planks, and scantlings of pine, pitch pine, or any other lumber; shingles, roofing tiles, roofing slates, tarred roofing paper, and all other kinds of roofing; bricks, flagstones of the Canary Islands; iron, steel, and copper in bar or sheets; nails and screws of iron or copper, whether galvanized or not; Portland Roman cement, manilla rope; iron, copper, or lead pipes; lighters, whether large or small; iron tanks; wheelbarrows, picks, mattocks, and shovels of all shapes; and oxcarts and wagons and the wheels therefor.

ART. 5. Panama hats and revolvers and cartridges shall only pay 10 per cent, to be assessed, in the case of hats, upon the tariff valuation, and in the case of revolvers and cartridges upon appraisement; and the duty thus collected shall be used for the same purposes as were set forth in the preceding article. Pianos, organs, and all other musical instruments, safes, and all pieces of furniture or articles imported free from duty, unless mentioned in article 1 of this decree, shall be subject to the provisions of the present article.

ABROGATION OF DECREE OF JULY 4, 1887.

[Translation.]

Ulises Heureaux, General of Division, Commander-in-Chief of the National Army, Pacifier of the Country, and Constitutional President of the Republic.

Whereas the decree of the National Congress relating to the free entry of agricultural supplies, dated the 4th of July, 1887, was fixed to remain in force until the 31st of December, 1890, and after that date until other dispositions should be substituted for or abrogate it.

Whereas the commercial arrangement recently concluded between the Government of the Dominican Republic and that of the United States of America allows to agricultural industries, for whose benefit the decree of free entry was made, to enjoy equally the advantages of its protectionist character.

Having heard the views of the members of the cabinet.

Resolved, The decree relating to the free entry of agricultural implements of the 4th of July, 1887, is hereby abrogated.

Given in the National Palace in Santo Domingo, capital of the Republic, the 5th of August, 1891, the forty-eighth year of the independence and the twenty-eighth of the restoration.

U. HEUREAUX,
President of the Republic.

Countersigned:

A. W. Y GIL,
Minister of Fomento and of Public Works.

SANCHEZ,
Minister of Finance and of Commerce.

DECREE AS TO NEW DUTIES.

[Translation.]

Ulises Heureaux, General of Division, Commander in Chief of the National Army, Pacifier of the Country, and Constitutional President of the Republic.

The law relating to the free entry of agricultural implements, which was to cease to be in force on the 30th of December, 1890, having been abrogated by a previous resolution.

Considering that the commerce of revolvers, cartridges for the same, Panama hats, and musical instruments, including pianos and harmoniums, had been favored by said law by a duty of only 10 per cent. on the invoice value;

Considering that it is necessary to again regulate the commerce of said articles, among which are some prohibited by the law above mentioned,

Resolved, (1) From and after the date of the publication of the present resolution the custom-houses throughout the territory of the Republic shall collect duties of importation upon the following articles:

(1) Revolvers, each, fixed duty, $2.

(2) Caps for revolvers, per 100, fixed duty, $2.

(3) Pianos, large and small, harmoniums, organs, and every kind of musical instruments for bands or orchestras, 10 per cent. upon the invoice value. Accordions are excepted from this remission, which shall pay the 60 per cent. ad valorem levied upon other merchandise.

(4) Panama hats in the proportion established by the tariff in force.

Given at Santo Domingo, in the National Palace of the Government, capital of the Dominican Republic, on the 5th of August, 1891, the forty-eight year of the independence and the twenty-eighth of the restoration.

(Signed,) U. HEUREAUX.

(Signed,) SANCHEZ,
Minister of Finance and Commerce.

PAPERS RELATING TO THE COMMERCIAL ARRANGEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF GREAT BRITAIN FOR THE BRITISH COLONIES OF TRINIDAD (WHICH INCLUDES TOBAGO), BARBADOS, THE LEEWARD ISLANDS (CONSISTING OF THE ISLANDS OF ANTIGUA, MONTSERRAT, ST. CHRISTOPHER, NEVIS DOMINICA, WITH THEIR RESPECTIVE DEPENDENCIES, AND THE VIRGIN ISLANDS), THE WINDWARD ISLANDS (CONSISTING OF ST. LUCIA, ST. VINCENT AND THEIR DEPENDENCIES, BUT EXCLUSIVE OF GRENADA AND ITS DEPENDENCIES); THE COLONY OF BRITISH GUIANA, AND THE COLONY OF JAMAICA AND ITS DEPENDENCIES. CONCLUDED FEBRUARY 1, 1892; PROCLAIMED FEBRUARY 1, 1892.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, *December 24, 1891.*

SIR: Referring to the notes which we have recently exchanged relative to the reciprocity section of the general tariff law of the United States, so far as the same bears on the British West Indian colonies and the colony of British Guiana, I beg to state that I have given the subject the careful consideration which it demands and have been assisted therein by the gentlemen designated by the several colonies to aid in the negotiation of arrangement. With the help of these gentlemen certain schedules have been drawn up of remissions and alterations of duties which I have reason to believe will prove satisfactory to your Government, and which are as follows:

As regards the following colonies, that is to say—

British Guinana;

Trinidad (which includes the island of Tobago);

Barbados;

The Leeward Islands (consisting of the several islands of Antigua, Montserrat, Saint Christopher, Nevis Dominica, with their respective dependencies, and the Virgin Islands);

The Winward Islands (consisting of St. Lucia, St. Vincent, and Grenada and their dependencies), but exclusive of Grenada and its dependencies—

It is proposed that the remissions and alterations of duty shall be made which are contained in Annex I to this note.

In the case of the colony of Jamaica it is proposed that remissions and alterations of duty shall be made which are contained in Annex II.†

Should the arrangement herein proposed be accepted by the Government of the United States, it shall be understood and agreed that every article named in Annex I which is now on the free list of the tariff of any of the above-mentioned colonies shall be continued on said free list during the existence of the proposed arrangement.

I have received instructions from Her Majesty's Government to submit to you the proposition that, if the remissions and reductions before enumerated appear satisfactory to your Government, the President should agree to forbear up to the 1st of February next to put in force, as against all those colonies, except British Guiana, and in the case of that colony up to the 31st of March next, the powers conferred upon him by section 3 of said tariff law; with the understanding that it will be for the governments of the several colonies named to pass the necessary

legislation within the periods above-mentioned, so that Her Majesty's Government may be in a position to announce to you, before the expiration of the said periods respectively, that the necessary steps have been taken to give the force of law to the changes in question.

If the above alterations in the tariffs of the colonies named are accepted by your Government as satisfactory, the President may be assured that they will be carried out with the utmost promptitude compatible with the circumstances in each colony, and that the fullest and fairest interpretation will be given to them.

It will be understood that the arrangement shall remain in force so long as it shall not be modified by the mutual agreement of the executive power of the two governments or by the legislative action of the Government of the United States or of the said colonies with the approval of the British Government.

I have, etc.,

JULIAN PAUNCEFOTE.

Hon. JAMES G. BLAINE, *etc.*

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, December 29, 1891.

SIR: I have the pleasure to acknowledge the receipt of your note of the 24th instant, in which you inform me that, in view of the reciprocity section (3) of the tariff law of the Congress of the United States, approved October 1, 1890, Her Majesty's Government has decided and authorized you to propose the remissions and alterations of duties set forth in your note in the British colonies of Trinidad, Barbados, the Leeward Islands, the Windward Islands (except Grenada), and Jamaica, to take effect not later than February 1, 1892, and in British Guiana to take effect not later than March 31, 1892; which remissions and alterations of duties you express the belief will prove satisfactory to the Government of the United States.

I am directed by the President to state to you that he accepts this action of Her Majesty's Government, in agreeing to grant remissions and alterations of duties in the British colonies above mentioned to the articles enumerated in the schedules attached to your note and in the terms stated therein, as a due reciprocity for the action of the Congress of the United States, as set forth in section 3 of the tariff of October 1, 1890.

As soon as I shall be advised that the legislation proposed has been enacted in the several colonies the President will make public announcement of this commercial arrangement, which, it is understood, shall remain in force so long as it shall not be modified by the mutual agreement of the executive power of the two governments or by the legislative action of the Government of the United States or of said colonies with the approval of the British Government.

I have, etc.,

JAMES G. BLAINE.

Sir JULIAN PAUNCEFOTE, G. C. M. G., K. C. B., *etc.*

Sir Julian Pauncefote to Mr. Blaine.

LEGATION OF GREAT BRITAIN,
Washington, January 30, 1892.

SIR: In pursuance of the arrangement between our respective Governments, recorded in my note of the 24th of December last and your reply thereto of the 29th of the same month, to regulate the trade regulations between the United States and the British West Indian colonies, I have now the honor to announce to you that the arrangement has been accepted by all the above-named colonies, and that the necessary steps have been taken to give it the force of law in the colonies of Jamaica, Barbados, and Trinidad.

I regret to say that I have not received intelligence of the passing of the necessary laws by the legislatures of the Leeward Islands and of the Windward Islands, but the governors of those colonies have been instructed to give me the earliest information by telegram of such measures having been completed.

The delay in those two cases has arisen from the number of separate legislatures which had to set in motion. I hope, however, to be able in a few days to announce to you that the new tariffs are also legally in force in both those colonies.

I have, etc.,

JULIAN PAUNCEFOTE.

Hon. JAMES G. BLAINE.

Sir Julian Pauncefote to Mr. Blaine.

LEGATION OF GREAT BRITAIN,
Washington, February 1, 1892.

SIR: With reference to my note of the 30th ultimo, respecting the steps taken in the British West Indian colonies to carry out the recent arrangement to regulate their trade relations with the United States, I have the honor to announce to you that since the date of that note I have received information from the government of the Leeward Islands and of the Windward Islands, respectively, that the necessary measures have been passed to give the arrangement the force of law in those colonies from this day.

This completes the legislation required to carry out the arrangement in all the British colonies to which it applies, except British Guiana, where, by its terms, it is not to come into force until the 1st of April.

I shall not fail to give you the earliest intimation of the passing of the necessary law in British Guiana to give it effect in that colony from the date above mentioned.

I have, etc.,

JULIAN PAUNCEFOTE.

Hon. JAMES G. BLAINE, *etc.*

PAPERS RELATING TO THE COMMERCIAL ARRANGEMENT BETWEEN THE UNITED STATES OF AMERICA AND SALVADOR. CONCLUDED DECEMBER 30, 1891; PROCLAIMED DECEMBER 31, 1891.

Mr. Blaine to Señor Guirola.

DEPARTMENT OF STATE,
Washington, January 3, 1891.

SIR: I have the honor to bring to your attention the fact that the Congress of the United States at its last session enacted a law, of which a copy is inclosed herewith, in which provision was made for the admission into the United States, free of all duty, of the following articles: * * * [Schedule follows] * * *

In section 3 of this law it is declared that these remissions of duty were made "with a view to secure reciprocal trade with countries producing" those articles; and it is provided that, whenever the President shall be satisfied that reciprocal favors are not granted to the products of the United States in the countries referred to, "he shall have the power and it shall be his duty" to impose upon the articles above enumerated, the products of the countries concerned, the rates of duty set forth in section 3.

The Government of the United States, being earnestly desirous of maintaining with the Republic of Salvador such trade relations as shall be reciprocally equal and mutually advantageous, I am directed by the President to request you to bring the above-mentioned provisions of this act of Congress to the attention of your Government, and to express the hope that you may be empowered to enter with me upon the consideration of the subject, with a view to the adjustment of the commercial relations between the two Republics on a permanent basis of reciprocity, profitable alike to both.

Accept, sir, etc.,

JAMES G. BLAINE.

Señor Don BENJAMIN MOLINA GUIROLA,
Envoy Extraordinary and Minister Plenipotentiary of Salvador.

Señor Morales to Mr. Blaine.

[Translation.]

LEGATION OF SALVADOR,
Washington, December 28, 1891.

Mr. SECRETARY OF STATE: The Government of Salvador, desiring to respond in the fullest manner to the invitation extended by your excellency in your note dated January 3 of the present year, and having in view the fact that the United States of America are disposed to receive, free of customs, municipal, and all other duties, coffee and the other articles named in section 3 of the law of the Congress of this country approved October 1 of last year, on condition that my Government will concede equal exemptions for some of the agricultural and industrial products of this country, has directed me to propose to your excellency the conclusion of a provisional commercial arrangement, for which it is now invested with the necessary powers.

For this purpose I propose to your excellency to admit, free of duties, in the Republic of Salvador, from and and after February 1 next, the articles enumerated in the schedule which I have the honor to attach hereto, provided they are products of the United States of America.

My Government, however, reserves full liberty to adopt the laws and regulations necessary to protect its customs revenues against fraud and contrabrand under the claim of introducing, as American, articles and merchandise proceeding from other countries; but it will not impose any additional charges upon the importers, nor undue restrictions on the articles introduced.

In case my proposition is accepted, my Government will apply to the Congress of the Republic, at its session in February next, for the necessary authority to conclude with the United States of America and put in operation a more complete reciprocity arrangement.

If the authority which my Government shall ask is granted, new negotiations shall be opened in this city within sixty days after the authority is obtained; and, in case a definite arrangement is reached, it shall be put in force in the Republic of Salvador within sixty days after its completion and shall supersede the provisional arrangement which I now propose.

It is understood that, should the Congress of Salvador take no action on the subject before its adjournment, the Government of the United States may terminate the provisional arrangement now under consideration by giving the Government of Salvador thirty days' notice in advance; and, if no definite arrangement shall have been made before January 1, 1893, the Government of your excellency may likewise declare the said provisional arrangement terminated.

I hope that His Excellency the President of the United States will recognize, in the proposition which I now make to your excellency, a proof that my government earnestly desires to enlarge the commercial relations between the two peoples, and that it has accepted the law of Congress of the United States as an expression of friendly and just reciprocity.

In submitting the foregoing, it is pleasant for me to renew to your excellency the assurance of my respect and consideration.

MANUEL L. MORALES.

Hon. JAMES G. BLAINE,
Secretary of State of the United States of America.

Mr. Blaine to Señor Morales.

DEPARTMENT OF STATE,
Washington, December 30, 1891.

SIR: It is very pleasant for me to acknowledge the receipt of your note of the 28th instant, in which you inform me that the Government of Salvador, in view of the invitation given in my note to your legation of January 3 last, and in consideration of the admission into the United States of the products of Salvador, free of all duty, whether national, municipal, or of any other kind, named in section 3 of the tariff law of the Congress of the United States approved October 1, 1890, proposes, as a provisional commercial arrangement, to admit into the Republic of Salvador, from the 1st day of February, 1892, free of all customs, municipal, or any other kind of duty, the articles, the product or manufacture of the United States, enumerated in the schedule attached to your said note; that, reserving the right to adopt the laws and regulations necessary to prevent fraud, it agrees that

they shall not impose any additional charges or fees therefor on the articles imported from the United States; that, in case the provisional arrangement proposed by you is accepted by the Government of the United States, the President of Salvador will apply to the Congress of the Republic, at its session in February next, for the authority necessary to celebrate with the United States and put in force a more complete reciprocity arrangement; that, if such authority should be conferred by the Congress, negotiations shall be opened at Washington within sixty days after the authority is obtained; and that, should a definite arrangement be agreed upon, it shall be put in operation within sixty days from the date of agreement and supersede the provisional arrangement now proposed.

I am directed by the President to state to you that he accepts this action of the Government of Salvador, in stipulating, as a provisional measure, to grant exemption of duties to the products and manufactures of the United States and to negotiate a more complete reciprocity arrangement on the terms stated, as a due reciprocity for the action of the Congress of the United States, as contained in section 3 of the tariff law above cited.

I am also pleased to reciprocate the assurance contained in your note, and to state that the laws and regulations adopted by the Government of the United States to prevent fraud shall not impose any additional charges or fees therefor on the products imported from Salvador.

It shall be further understood that, should the Congress of Salvador take no action on the application of the Executive for authority to celebrate a more complete reciprocity arrangement, the Government of the United States may terminate the provisional arrangement proposed by you upon thirty days' notice to the Government of Salvador; and, further, that if before January 1, 1893, no definite arrangement is agreed upon, the Government of the United States may likewise terminate the provisional arrangement.

I am, etc.,

JAMES G. BLAINE.

Dr. MANUEL L. MORALES,
Envoy Extraordinary and Minister Plenipotentiary of Salvador.

PAPERS RELATING TO THE COMMERCIAL ARRANGEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF NICARAGUA. CONCLUDED MARCH 11, 1892; PROCLAIMED MARCH 12, 1892.

Mr. Blaine to Señor Guzman.

DEPARTMENT OF STATE,
Washington, January 3, 1891.

SIR: I have the honor to bring to your attention the fact that the Congress of the United States at its last session enacted a law, of which a copy is inclosed herewith, in which provision was made for the admission into the United States, free of all duty, of the following articles: All sugars not above No. 16 Dutch standard in color, molasses, coffee, tea, hides, and skins.

In section 3 of this law it is declared that these remissions of duty were made "with a view to secure reciprocal trade with countries producing" those articles; and it is provided that, whenever the President shall be satisfied that reciprocal favors are not granted to the products of the United States in the countries referred to, "he shall have the power and it shall be his duty" to impose upon the articles above enumerated, the products of the countries concerned, the rates of duty set forth in section 3.

The Government of the United States, being earnestly desirous of maintaining with the Republic of Nicaragua such trade relations as shall be reciprocally equal and mutually advantageous, I am directed by the President to request you to bring the above-mentioned provisions of this act of Congress to the attention of your Government, and to express the hope that you may be empowered to enter with me upon the consideration of the subject, with a view to the adjustment of the commercial relations between the two Republics on a permanent basis of reciprocity, profitable alike to both.

Accept, sir, etc.,

JAMES G. BLAINE.

Señor Guzman to Mr. Blaine

[*Translation*]

LEGATION OF THE REPUBLIC OF NICARAGUA,
Washington, March 11, 1892.

SIR: I take pleasure in informing your excellency that my Government, desiring to meet the friendly wishes expressed by your excellency in your important note of January 3, 1891, has authorized me to conclude a treaty of commercial reciprocity.

I consequently have the honor herewith to inclose a schedule of the American articles which the Government of Nicaragua is prepared to admit free of any duty into the ports of the Republic on and after the 15th of April next, on condition that those Nicaraguan productions referred to in section 3 of the tariff law enacted by the United States Congress on the 1st day of October, 1890, shall continue to enjoy the same privileges in this country that they now enjoy.

The articles mentioned in the aforesaid schedule must be the exclusive production of the United States, and, in order to secure proof that they are so, my Government reserves the right to adopt such measures as it may think proper for the prevention of fraud upon its customs revenue; such measures, however, shall place no undue restrictions upon the importer nor occasion any additional charges or fees therefor upon the articles imported.

The Government of Nicaragua agrees to impose no export duties, so long as the treaty of commercial reciprocity between the two republics shall remain in force, upon any of the Nicaraguan productions which are hereafter to be admitted into this country free of all duties.

My Government hopes that his excellency the President of the United States will approve a treaty of commercial reciprocity on the bases which have been stated, and that such treaty will remain in force until the law-making power of either of the two countries decides otherwise, or until it is abrogated by the mutual consent of both Governments.

I reiterate to your excellency the assurances of my highest consideration.

H. GUZMAN.

* * * [Schedules follow] * * *.

Mr. Wharton to Señor Guzman.

DEPARTMENT OF STATE,
Washington, March 11, 1892.

SIR: I have great pleasure in acknowledging the receipt of your note of this date, in which you inform me that the Government of Nicaragua, in reciprocity for the admission into the United States, free of duty, of the products of said Republic enumerated in section 3 of the tariff law of the Congress of the United States of October 1, 1890, is prepared to admit into the ports of the Republic of Nicaragua, free of duty, on and after the 15th day of April, 1892, the articles, the product of the United States of America, named in your note; that your Government gives the assurance that no export tax shall be imposed on the articles admitted free into the United States; and that the laws and regulations adopted by Nicaragua to prevent fraud shall not cause any embarrassment nor impose any additional charges or fees therefor on the merchandise.

I am directed by the President to state to you that he accepts this action of the Government of Nicaragua, in granting exemption of duties to the products of the United States, as a due reciprocity for the action of the Congress of the United States as contained in section 3 of the tariff law above cited.

I am also pleased to reciprocate the assurances contained in your note, and to state that no export tax can or will be imposed in the United States upon the products or manufactures enumerated in the schedule attached to your note of this date sent to Nicaragua.

It may be further understood that, while the Government of the United States reserves the right to adopt the laws and regulations necessary to protect its revenue and prevent fraud in the declarations and proof that the articles enumerated in section 3 of the law cited are the product or manufacture of Nicaragua, the laws and regulations to be adopted shall place no undue restrictions upon the importer nor impose any additional charges or fees upon the articles imported.

I have, therefore, to request that you will meet me at the Department of State at your convenience to agree upon the time and manner of making public announcement of this commercial arrangement, which, it is understood, shall remain

in force so long as it shall not be modified by the legislation of either Government or by the mutual agreement of the executive power of the two countries.

Accept, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

PAPERS RELATING TO THE COMMERCIAL ARRANGEMENT BETWEEN THE UNITED STATES OF AMERICA AND GUATEMALA. CONCLUDED DECEMBER 30, 1891; PROCLAIMED MAY 18, 1892.

Mr. Blaine to Mr. Kimberly.

No. 11.] DEPARTMENT OF STATE,
Washington, January 5, 1891.

SAMUEL KIMBERLY, Esq.,
Guatemala City:

SIR: I desire to bring to your attention the fact that the Congress of the United States, at its last session, enacted a law—of which three copies are inclosed herewith—in which provision was made for the admission into the United States, free of duty, of the following articles: All sugars not above No. 16 Dutch standard in color, molasses, coffee, tea, hides, and skins.

In section 3 of this law it is declared that these remissions of duty were made "with a view to secure reciprocal trade with countries producing" those articles; and it is provided that whenever the President shall be satisfied that reciprocal favors are not granted to the products of the United States in the countries referred to, "he shall have the power and it shall be his duty" to impose upon the articles above enumerated, the products of the countries concerned, the rates of duty set forth in section 3.

The Government of the United States being earnestly desirous of maintaining with Guatemala such trade relations as shall be reciprocally equal and mutually advantageous, I am directed by the President to request you to bring the above-mentioned provisions of this act of Congress to the attention of the minister for foreign affairs of that Republic, and to express the hope that such steps may be taken by his Government as shall result in the establishment of commercial relations between the United States and the Republic referred to on a permanent basis of reciprocity, profitable alike to both. As it is desirable that the negotiations for this purpose should be carried on at Washington, it would be well for you to suggest to the minister for foreign affairs of Guatemala that the Guatemalan representative to this Government be empowered to consider the subject with me.

I am, etc.,

JAMES G. BLAINE.

Mr. Kimberly to the minister of foreign affairs of Guatemala.

LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,
Guatemala, January 22, 1891.

Mr. MINISTER: It is with pleasure that I inform your excellency of a communication from my Government at Washington, dated January 5, announcing that the Congress of the United States has enacted a law in which provision is made for the admission into the United States "free of duty" of articles that your excellency's Government is now producing in large quantities, namely: Coffee, sugar, molasses, hides, and skins. Your excellency must perceive by this friendly act of my Government that it is desirous to meet the exigencies of the future well-being of our kindly relations. For and inasmuch as States in our Republic themselves produce sugar, yet your excellency will observe that, notwithstanding this fact, in order to meet this contingency and prevent injustice to our producer, it is provided that a bonus be paid him out of the Treasury of the United States, thus clearing the way for reciprocity with your excellency's Government; and permit me to quote from my instructions the following language therein contained:

"In section 3 of this law (a copy of which I transmit herewith) it is declared that these remissions of duty were made with a view to secure reciprocal trade with countries producing those articles.

"And it is provided that whenever the President shall be satisfied that reciprocal favors are not granted to the products of the United States in the countries referred

to, he shall have the power and it shall be his duty to impose upon the articles above enumerated, the products of the countries concerned, the rates of duty set forth in section 3."

I further quote from the same source:

"The Government of the United States is earnestly desirous of maintaining with Guatemala such trade relations as shall be reciprocally equal and mutually advantageous."

I hope that your excellency's Government may give this important measure the consideration it deserves, and will empower its diplomatic representative at Washington to call upon the honorable James G. Blaine, Secretary of State, in order to adjust with him this important question, beneficial alike to both republics.

Accept, etc.,

SAMUEL KIMBERLY.

Señor DON F. ANGUIANO, *etc.*

The Guatemalan minister Mr. Blaine.

LEGATION OF GUATEMALA IN THE UNITED STATES,
Washington, December 29, 1891.

Mr. SECRETARY: I have the the honor to inform you that the Government of Guatemala, being actuated by an earnest desire to strengthen and draw closer the political and commercial relations between the two republics, has given careful consideration to the note which was addressed to it by the chargé d'affaires *ad interim* of the United States at Guatemala city on 22d of January last, informing my Government of the action taken by the United States Congress on the subject of commercial reciprocity, as contained in section 3 of the tariff law of October 1, 1890.

I am pleased to be able to state, in reply to the said note, that the Government of Guatemala, in due reciprocity for, and in consideration of, the admission into the United States of America, free of all duties, whether national, State, or municipal, of the articles mentioned in the aforesaid note of January 22 last, proposes to admit into all the established ports of entry of the Republic of Guatemala, free of all customs duties and any other national, municipal, or port charges, the articles or merchandise named in the schedule attached to this note, provided that the same be the product or manufacture of the United States. In view, however, of the fact that the executive of Guatemala is not clothed with authority to put the commercial arrangement herein proposed into operation without the sanction of the National Congress, it is agreed that the President of Guatemala shall submit the arrangement to the National Congress at its session in March next, and that the said arrangement shall be put into operation within thirty days after its approval by that body.

The Government of Guatemala gives the assurance that, in case the proposed arrangement is carried into effect, no increase shall be made in the export duties now in force on the articles enumerated in section 3 of the said tariff law, nor upon any article, the product of Guatemala, now on the free list of the tariff of said United States, so long as such article shall continue to be admitted free of duty.

The Government of Guatemala reserves the right to adopt the necessary laws and regulations to protect its revenue and prevent fraud in the declarations and proof that the articles enumerated in the attached schedule are exported from, and are the product or manufacture of, the United States; but the laws and regulations to be adopted shall place no undue restrictions upon importers, nor occasion any additional charges or duties on the articles imported.

I feel confident that the proposition, as above set forth, will satisfy the President of the United States that the Government of Guatemala has responded in the fullest manner possible to the legislation of the Congress of the United States, and that it will be accepted as a just and reasonable act of reciprocity. If so, and if the proposed arrangement shall take effect on the terms stated, it will be with the understanding that it shall remain in force until it is modified or abrogated by the legislative action of either Government or by mutual agreement between the Executives of the two countries.

With the highest consideration, etc.,

ANTO. BATRES.

Hon. JAMES G. BLAINE,
Secretary of State.

Mr. Blaine to the Guatemalan minister.

DEPARTMENT OF STATE,
Washington, December 30, 1891.

SIR: I have great pleasure in acknowledging the receipt of your note of the 29th instant, in which you inform me that the Government of Guatemala, in due reciprocity for, and in consideration of, the free admission into the United States of the products of Guatemala enumerated in the note of the chargé d'affaires *ad iterim* of the United States at Guatemala City, dated January 22, 1891, proposes to admit free of duty the articles, the product or manufacture of the United States of America, named in the schedule attached to your note within thirty days after the approval by the Congress of Guatemala of the Commercial arrangement proposed by you; that no increase shall be made by Guatemala in the export tax on the articles admitted free into the United States; and that the laws and regulations adopted by Guatemala to prevent fraud shall not impose any additional charges or fees therefor on the articles named in your note imported from the United States.

I am directed by the President to state to you that, in case the Congress of Guatemala at its next session approves the commercial zrrangement proposed by you, he will accept this action of the Government of Guatemala, in granting exemption of duties to the products of the United States, as a due reciprocity for the action of the Congress of the United States, as set forth in Mr. Kimberly's note above mentioned.

I am also pleased to reciprocate the assurances contained in your note, and to state that, in case the proposed arrangement goes into operation, no export tax, whether national, State, or municipal, can or will be imposed in the United States upon the products or manufactures enumerated in the schedule attached to your note sent to Guatemala.

It may be further understood that, while the Government of the United States reserves the right to adopt the laws and regulations necessary to protect its revenue and prevent fraud in the declarations and proof that the articles enumerated in section 3 of the law cited are the product or manufacture of Guatemala, the laws and regulations to be adopted shall place no undue restrictions upon the importer nor impose any additional charges or fees upon the articles imported.

When I shall be advised by you of the favorable action of the Congress of Guatemala, I shall be pleased to agree with you upon the time for making concurrent announcement of the proposed commercial arrangement, which, it is understood, shall remain in force so long as it shall not be modified or revoked by the legislation of either Government or by the mutual agreement of the executive power of the two countries.

Accept, etc.,

JAMES G. BLAINE.

Señor DON ANTONIO BATRES, *etc.*

PAPERS RELATING TO THE COMMERCIAL ARRANGEMENT BETWEEN THE UNITED STATES OF AMERICA AND HONDURAS. CONCLUDED APRIL 29, 1892; PROCLAIMED APRIL 30, 1892.

Mr. Blaine to Mr. Kimberly.

DEPARTMENT OF STATE,
Washington, January 5, 1891.

SIR: I desire to bring to your attention the fact that the Congress of the United States at its last session enacted a law, of which three copies are inclosed herewith, in which provision was made for the admission into the United States, free of duty, of the following articles: All sugars not above No. 16 Dutch standard in color, molasses, coffee, tea, hides, and skins.

In section 3 of this law it is declared that these remissions of duty were made "with a view to secure reciprocal trade with countries producing" those articles; and it is provided that whenever the President shall be satisfied that reciprocal favors are not granted to the products of the United States in the countries referred to, "he shall have the power and it shall be his duty" to impose upon the articles above enumerated, the products of the countries concerned, the rates of duty set forth in section 3.

The Government of the United States being earnestly desirous of maintaining with Honduras such trade relations as shall be reciprocally equal and mutually advantageous, I am directed by the President to request you to bring the above-mentioned provisions of this act of Congress to the attention of the minister for foreign affairs of that republic, and to express the hope that such steps may be taken by that government as shall result in the establishment of commercial relations between the United States and Honduras on a permanent basis of reciprocity, profitable alike to both.

Since the Republic of Honduras is not at the present time represented at this capital, it will be well for you to suggest to the minister for foreign affairs thereof, when addressing him upon the subject, that his Government specially accredit some person to consider with me this important question.

I am, etc.,

JAMES G. BLAINE.

Mr. Baiz to Mr. Blaine.

CONSULATE-GENERAL OF HONDURAS,
New York, April 18, 1892.

Hon. JAMES G. BLAINE,
Secretary of State:

SIR: I have the honor to address you for the purpose of stating in reply to the invitation, which by your direction the minister of the United States accredited to Honduras addressed to the minister of foreign affairs of my Government, dated January 22, 1891, that the Government of Honduras, in reciprocity for admission into the United States, free of any national, municipal, or any other duty, of the products of Honduras enumerated in section 3 of the tariff law passed by the Congress of the United States, approved October 1, 1890, offers to admit into Honduras free of customs, municipal or any other duties, on and after May 25, 1892, the articles contained in the schedule attached hereto, provided they are the product or manufacture of the United States.

It is proper for me to inform you that admission into the ports of Honduras without payment of any duty whatever, of the aforesaid products and manufactures, will be provisionally granted pending the conclusion by my Government with yours of a more comprehensive commercial arrangement that shall be mutually advantageous to both countries, to which end my Government will receive the necessary powers from the Congress of the Republic at its next session.

My Government, however, reserves full liberty to adopt the laws and regulations necessary to protect its customs revenues against fraud and contraband, under the claim of introducing, as American, articles and merchandise proceeding from other countries; but it will not impose any additional charge upon the importers nor undue restrictions on articles introduced.

If the authority which my Government shall ask from Congress is granted, new negotiations shall be opened without delay, and in case a definitive arrangement is reached it shall be put in force in the Republic of Honduras within sixty days after its completion and shall supersede the provisional arrangements which I now propose.

It is understood that, should the congress of Honduras take no action on the subject before its adjournment, the Government of the United States may terminate the provisional arrangements now under consideration by giving the Government of Honduras thirty days' notice in advance; and, if no definite arrangement shall have been made before January 1, 1893, the Government of the United States may likewise declare the said provisional arrangement terminated.

I hope that his excellency the President of the United States will recognize in the proposition which I now make you a proof that my Government earnestly desires to enlarge the commercial relations between the two peoples, and that it has accepted the law of Congress of the United States as an expression of friendly and just reciprocity.

In submitting the foregoing it is pleasant for me to renew to you the assurances of my respect and consideration, and remain your obedient servant,

JACOB BAIZ,
Consul-General.

By authority received this day by cable.

J. B.

Mr. Blaine to Mr. Biaz.

DEPARTMENT OF STATE,
Washington, April 29, 1892.

JACOB BAIZ, Esq.,
Consul-General of Honduras at New York, New York city:

SIR: It is very pleasant for me to acknowledge the receipt of your letter of the 13th instant, in which you inform me that the Government of Honduras, in reply to the invitation which, by my direction, the minister of the United States accredited to Honduras addressed to the minister of foreign affairs of that Government, dated January 22, 1891, and in consideration of the admission into the United States of the products of Honduras, free of all duty, whether national, municipal, or of any other kind, named in section 3 of the tariff law of the Congress of the United States approved October 1, 1890, proposes, as a provisional commercial arrangement, to admit into the Republic of Honduras, from the 25th day of May, 1892, free of all customs, municipal, or any other kind of duty, the articles, the product or manufacture of the United States, enumerated in the schedule attached to your said note; that, reserving the right to adopt the laws and regulations necessary to prevent fraud, it agrees that they shall not impose any additional charges or fees therefor on the articles imported from the United States; that, in case the provisional arrangement proposed by you is accepted by the Government of the United States, the President of Honduras will apply to the Congress of the Republic, at its next session, for the authority necessary to celebrate with the United States and put in force a more complete reciprocity arrangement; that, if such authority should be conferred by the Congress, negotiations shall be opened without delay; and that, should a definite arrangement be agreed upon, it shall be put in operation within sixty days from the date of agreement, and supersede the provisional arrangement now proposed.

I am directed by the President to state to you that he accepts this action of the Government of Honduras, in stipulating, as a provisional measure, to grant exemption of duties to the products and manufactures of the United States and to negotiate a more complete reciprocity arrangement on the terms stated, as a due reciprocity for the action of the Congress of the United States, as contained in section 3 of the tariff law above cited.

I am also pleased to reciprocate the assurance contained in your note, and to state that the laws and regulations adopted by the Government of the United States to prevent fraud shall not impose any additional charges or fees therefor on the products imported from Honduras.

It shall be further understood that, should the Congress of Honduras take no action on the application of the Executive for authority to celebrate a more complete reciprocity arrangement, the Government of the United States may terminate the provisional arrangement proposed by you upon thirty days' notice to the Government of Honduras: and, further, that if before January 1, 1893, no definite arrangement is agreed upon, the Government of the United States may likewise terminate the provisional arrangement.

I am, etc.,

JAMES G. BLAINE.

PAPERS RELATING TO THE COMMERCIAL ARRANGEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE GERMAN EMPIRE. CONCLUDED JANUARY 30, 1892; PROCLAIMED FEBRUARY 1, 1892.

[Translation.]

SARATOGA, *August 22, 1891.*

MR. PLENIPOTENTIARY: Inasmuch as the inspection of meat intended for interstate commerce in North America and for exportation to foreign countries has been made compulsory by the act of March 3, 1891, and by the regulations of March 25, 1891, relative to the execution of that act, the Imperial Government is happy to be able to announce that there is no longer any cause for maintaining in force the prohibition, promulgated on sanitary grounds in the year 1883, of the importation of hogs, pork, and sausages of American origin, provided that they are officially inspected according to the regulations of March 25, 1891, and accompanied by the required certificate. As soon, therefore, as the Government of the United States of America is able officially to inform the Imperial Government when the act of March 3, 1891, will actually take effect in the manner provided by the regulations

of March 25, 1891, so that the guaranty which is contemplated by the aforesaid act shall appear confirmed, viz, that no meat dangerous to health shall be exported, the Imperial Government will take the necessary preliminary measures to abolish the German prohibition of importation which was promulgated May 6, 1883.

The Imperial Government, in making this declaration, bases its action upon the supposition that, after the abolition of the aforesaid German prohibition of importation, the President of the United States of America will no longer have any occasion for the exercise, as regards the German Empire, of the discretionary powers conferred upon him by the Fifty-first Congress. (See section 3 of the tariff act of October 1, 1890; public act No. 330, and section 5 of the act providing for the inspection of meat of August 30, 1890; also public act No. 247.)

The Imperial Government thinks that it has the greater reason for this assumption, since it is prepared to grant to the United States of America the same reductions in customs duties on agricultural products that have been granted by it (or still are so) to Austria-Hungary and other states during the negotiations for the conclusion of a treaty of commerce that are now being conducted by Germany.

Begging you to be pleased to inform me, in your reply to this note, whether the views expressed by the Imperial Government as regards section 3 of the tariff act of October 1, 1890, and section 5 of the act providing for the inspection of meat of August 30, 1890, is correct, I await information from you as to the time when the act of March 3, 1891, is to be fully enforced, in pursuance of the regulations of March 25, 1891.

I avail, etc.,

A. v. MUMM.

Hon. JOHN W. FOSTER,
Plenipotentiary Extraordinary of the United States.

Mr. Foster to Mr. von Mumm

SARATOGA, *August 22, 1891.*

SIR: I have the honor to acknowledge the receipt of your note of to-day, in which you inform me that, when the Government of the United States shall be able to announce to the German Imperial Government that the provisions of the law of March 3 of the present year and the regulations of the 25th of the same month respecting the inspection of meat destined for interstate and foreign commerce have been practically put in operation, the Imperial Government will take the necessary steps for abolishing the order of March 6, 1883, prohibiting the importation into Germany of hogs, pork, and sausages of American origin; and you further state that, in view of this declaration and of the further fact that the Imperial Government is willing to grant to the United States the same tariff reductions in agricultural products which have been granted by commercial-treaty negotiations with Austria-Hungary or which may be granted to other countries, the Imperial Government entertains the expectation that no cause will thereafter exist for the President of the United States to make use, as against the German Empire, of the powers conferred upon him by the Fifty-first Congress in section 3 of the tariff law of October 1 and section 5 of the meat inspection law of August 30, 1890.

It gives me great pleasure to announce to you that the inspection of meat, in accordance with the law of March 3 last and of the regulations of the 25th of the same month, is now, and for some weeks past has been, in practical operation under the direction and at the expense of the Government of the United States, and that meat so inspected will be ready for exportation to Germany on or before the first day of next month. It is also very gratifying to me to give you the assurance, by direction of the President, that the contemplated action of the Imperial Government in abolishing the order of March 6, 1883, prohibiting the importation of hogs, pork, and sausages of American origin will remove the occasion for the exercise by the President, as against the German Empire, of the power conferred upon him by section 5 of the meat-inspection law of the Congress of the United States of August 30, 1890.

I am further directed by the President to state that he accepts the action of the Imperial Government, in proposing to grant to the agricultural products of the United States the same tariff reductions, on their importation into Germany, as are granted to the similar productions of Austria-Hungary embraced in the commercial treaty recently negotiated with that Government or which may be granted by Germany to other countries, as a due reciprocity for the action of the Congress of the United States as contained in section 3 of the tariff law of October 1, 1890; and that

as soon as he shall be officially informed that the Imperial Government is prepared to decree the admission of the indicated products of the United States into the German Empire at the reductions of the general tariff proposed, the President will cause the necessary orders to be given to secure the continued free admission into the United States of the articles, the product of the German Empire, enumerated in section 3 of said law of October 1, 1890.

I remain, etc.,

JOHN W. FOSTER,
Special Plenipotentiary of the United States.

Mr. ALFONS MUMM VON SCHWARZSTEIN,
Charge d' Affaires of the German Empire.

Mr. von Mumm to Mr. Blaine.

[Translation]

IMPERIAL GERMAN LEGATION,
Washington, December 10, 1891.

Mr. SECRETARY OF STATE: Referring to my note addressed to the special plenipotentiary of the United States of America, Mr. John W. Foster, dated at Saratoga, August 22, 1891, I have the honor to transmit to you herewith a table, remarking that it contains the Austro-Hungarian tariff concessions granted by us, which, in accordance with my declaration made on the occasion of the removal of our decree forbidding the importation of swine, pork, and sausages of American origin, likewise accrue to the benefit of the United States of America.

I have, moreover, the honor to transmit, for your information, a copy of the general customs tariff now in force in the German Empire.

In the table are included not only the articles which, in the treaty of commerce concluded between the German Empire and Austria-Hungary, have received a reduction of duties, but also those articles in regard to which an agreement has been made, that is to say, in regard to which the German Empire, in accordance with its negotiations with Austria-Hungary, can not allow any increase of duties as long as the treaty of commerce remains in force with that country.

The treaty of commerce concluded with Austria-Hungary was laid before the German Reichstag on the 7th of this month, and, in case of its due ratification, the 1st of February of the approaching year has been proposed as the date for its taking effect.

I avail, etc.,

A. v. MUMM.

Mr. JAMES G. BLAINE,
Secretary of State of the United States.

PAPERS RELATING TO THE COMMERCIAL ARRANGEMENT BETWEEN THE UNITED STATES OF AMERICA AND AUSTRIA-HUNGARY. CONCLUDED MAY 25, 1892; PROCLAIMED MAY 26, 1892.

Mr. Blaine to the Chevalier de Tavera.

DEPARTMENT OF STATE,
Washington, January 7, 1892.

SIR: The Congress of the United States enacted a tariff law, which was approved October 1, 1890, in which provision was made for the admission into the United States, free of all duty, of the following articles, to wit: All sugars not above No. 16 Dutch standard in color, molasses, coffee, tea, and hides. In section 3 of this law it is declared that these remissions of duty were made "with a view to secure reciprocal trade with countries producing" those articles; and it is provided that "on and after the first day of January, 1892, whenever and so often as the President shall be satisfied that the Government of any country producing and exporting sugars, molasses, coffee, tea, and hides, raw and uncured, or any of such articles, imposes duties or other exactions upon the agricultural or other products of the United States, which, in view of the free introduction of such sugar, molasses, coffee, tea, and hides into the United States, he may deem to be reciprocally unequal and unreasonable, he shall have the power and it shall be his duty to suspend, by

proclamation to that effect, the provisions of this act relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of such country, for such time as he shall deem just, and in such case and during such suspension duties shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides, the product of or exported from such designated country," at the rate set forth in said section 3.

I am directed by the President to inform you that, in view of the free introduction into the United States of the articles named, the product of Austria-Hungary, he deems the duties imposed upon the agricultural and other products of the United States, on their introduction into Austria-Hungary, to be reciprocally unequal and unreasonable; and that, unless on or before the 15th day of March next some satisfactory commercial arrangement is entered upon between the Government of the United States and the Government of Austria-Hungary, or unless some action is taken by the latter Government whereby the unequal and unreasonable state of the trade relations between the two countries is removed, the President will, on the date last named, issue his proclamation suspending the provisions of the tariff law cited relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of Austria-Hungary, and during such suspension the duties set forth in section 3 of said law shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides, the product of or exported from Austria-Hungary.

In asking you to transmit to your Government the foregoing information, I beg that you will also convey to it the assurance that the Government of the United States is earnestly desirous of maintaining with Austria-Hungary such trade relations as shall be reciprocally equal and mutually advantageous, and state that this Government entertains the hope that, before the time fixed in this note, you may be empowered to enter with me upon some equitable and satisfactory arrangement, based upon the concessions proposed in the law of the Congress of the United States.

Accept, etc.,

JAMES G. BLAINE.

Chevalier DE TAVERA, *Etc.*

Chevalier de Tavera to Mr. Blaine.

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, May 2, 1892.

Mr. SECRETARY OF STATE: I have been authorized by the ministry of foreign affairs to inform you, in reply to your note of January 7, that it is desired in Austria-Hungary to establish the commercial relations of that country with the United States on a suitable basis.

The Austro-Hungarian Government is consequently prepared to grant such reductions of duties as have been or may hereafter be granted to other states by commercial treaties, so far as such reductions are applicable to all countries enjoying the usage of the most-favored nation, to similar productions from the United States of America on their importation into Austria-Hungary. The Austro-Hungarian Government takes it for granted that the Government of the United States will be prepared to secure a continuance of the present exemption from duties to Austrian and Hungarian productions, provided that they are mentioned in section 3 of the tariff law of October 1, 1890, and especially to sugar imported into the United States from Austria-Hungary.

As soon, therefore, as a declaration shall be made on this subject by the Government of the United States of America, such measures will immediately be taken in Austria-Hungary as are necessary to extend the aforesaid reductions of duties to the productions of the United States.

I avail, etc.,

TAVERA.

His Excellency J. G. BLAINE,
Secretary of State.

Mr. Blaine to the Chevalier de Tavera.

DEPARTMENT OF STATE,
Washington, May 3, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant, in which, in reply to my note of January 7th last, communicating to you the provisions of section 3 of the tariff law of the United States of October 1, 1890, you state that the Government of Austria-Hungary, in return for the free admission into the United States of sugar and the other products of Austria-Hungary named in said section 3, is ready to grant to the products of the United States, on their importation into Austria-Hungary, the same reductions of duties as are granted to other countries by commercial treaties now in force or which may be hereafter granted.

I am directed by the President to state to you that he accepts the action of the Government of Austria-Hungary in proposing to grant to the products of the United States the same tariff reductions, on their importation into Austria-Hungary, as are granted to Germany and other countries by the commercial treaties now in force or which may hereafter be granted, as a due reciprocity for the action of the Congress of the United States as contained in section 3 of the tariff law of October 1, 1890; and that, as soon as he shall be officially informed that the Government of Austria-Hungary is prepared to decree the admission of the products of the United States at the reductions of the general tariff proposed, the President will cause the necessary orders to be given to secure the continued free admission into the United States of the articles, the product of Austria-Hungary, enumerated in section 3 of the said law of October 1, 1890.

Accept, etc.,

JAMES G. BLAINE.

Chevalier DE TAVERA, *etc.*

The Chevalier de Tavera to Mr. Blaine.

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, May 25, 1892.

SIR: I have the honor to bring to your knowledge that I have just received a telegram from his excellency Count Kalnoky, which informs me that the decree according in Austria-Hungary to the imports from the United States the treatment on the basis of the most favored nation has been published to-day.

I avail, etc.,

TAVERA.

Hon. JAMES G. BLAINE,
Secretary of State.

EXECUTIVE AGREEMENTS ENTERED INTO PURSUANT TO SECTION 3 OF THE TARIFF ACT OF 1897.

RECIPROCAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND FRANCE.

Concluded May 28, 1898.
Proclaimed May 30, 1898.
In effect June 1, 1898.

PROTOCOL

of the Reciprocal Agreement between the Governments of the United States of America and of the French Republic concluded at Washington this twenty-eighth day of May 1898 by their respective Representatives duly empowered for that purpose; namely, on the part of the United States the Honorable John A. Kasson, Special Commissioner Plenipotentiary etc. and on the part of the French Republic His Excellency, M. Jules Cambon, Ambassador of France etc. etc. etc.

The Government of the United States and the Government of France being animated by the same spirit of conciliation and being equally desirous to improve their commercial relations, have concluded the following Agreement.

I

It is agreed on the part of France that during the continuance in force of this Agreement the following articles of commerce, the product of the soil or industry of the United States, shall be admitted into France at the minimum rates of duty, to wit, not exceeding the following rates:

* * * [Schedule follows) * * *

II

It is reciprocally agreed on the part of the United States in accordance with the provisions of Section 3 of the United States Tariff Act of 1897 that during the continuance in force of this Agreement the following articles of commerce, the product of the soil or industry of France, shall be admitted into the United States at rates of duty not exceeding the following, to wit:

* * * [Schedule follows] * * *

But it is expressly understood that this latter concession [on still wines and vermuth] may be withdrawn in the discretion of the President of the United States whenever additional duties beyond those now existing, and which may be deemed by him unjust to the commerce of the United States, shall be imposed by France on products of the United States.

III

This Agreement shall take effect and be in force on and after the first day of June 1898.

Signed in duplicate this twenty-eighth day of May A. D. 1898, in the City of Washington.

JOHN A. KASSON
JULES CAMBON

RECIPROCAL COMMERCIAL ARRANGEMENT BETWEEN THE UNITED STATES OF AMERICA AND PORTUGAL

The President of the United States of America and His Most Faithful Majesty the King of Portugal and of the Algarves, equally animated by the desire to confirm the good understanding existing between them and to increase the commercial intercourse of the two countries, have deemed it expedient to enter into a reciprocal commercial Agreement to that end; and they have appointed as their Plenipotentiaries for that purpose, to wit:—

The President of the United States of America, the Honorable John A. Kasson, Special Commissioner Plenipotentiary; and

His Most Faithful Majesty, the Viscount de Santo-Thyrso, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Washington:

Who, after an exchange of their respective full Powers, found to be in due and proper form, have agreed upon the following Articles:

ARTICLE I.

Upon the following articles of commerce being the product of the soil or industry of Portugal or of the Azores and Madeira Islands imported into the United States the present rates of duty shall be reduced and shall hereafter be as follows, namely:—

* * * (Schedule follows) * * *

ARTICLE II.

Reciprocally and in consideration of the preceding concessions, upon the following articles of commerce being the products of the soil or industry of the United States imported into the Kingdom of Portugal and the Azores and Madeira Islands, the rates of duty shall be as low as those accorded to any other country (Spain and Brazil being excepted from this provision) namely:

* * * [Schedule follows] * * *

ARTICLE III.

It is mutually understood that His Most Faithful Majesty's Government reserves the right, after three months prior notification to the United States

Government of its intention to do so, to arrest the operation of this Convention in case the United States shall hereafter impose a duty upon crude cork or coffee being the product of Portugal or of the Portuguese Possessions, or shall give less favorable treatment to the following articles being the product of Portugal or of her Possessions than that accorded to the like articles being the product of any other country not under the control of the United States, namely: argols, crude tartar or wine lees; coffee, cacao; wines; brandies; cork, raw or manufactured; sardines and anchovies preserved; and fruits, not preserved; but in respect to fruits the United States reserves the right to make special arrangements applicable to any of the West India Islands.

ARTICLE IV.

This Agreement shall be ratified by His Most Faithful Majesty so soon as possible, and upon official notice thereof the President of the United States shall issue his Proclamation giving full effect to the provisions of Article I of this Agreement. From and after the date of such Proclamation this Agreement shall be in full force and effect, and shall continue in force for the term of five years thereafter, and if not then denounced by either Party shall continue in force until one year from the time when one of the Parties shall have notified the other of its intention to arrest the operation thereof.

Done at Washington the twenty-second day of May in the year one thousand eight hundred and ninety-nine.

JOHN A. KASSON [SEAL]
VISCONDE DE SANTO-THYRSO [SEAL]

RECIPROCAL COMMERCIAL ARRANGEMENT WITH ITALY.

Concluded February 8, 1900; proclaimed July 18, 1900.

The President of the United States of America and His Majesty the King of Italy, mutually desirous to improve the commercial relations between the two countries by a Special Agreement relative thereto, have appointed as their Plenipotentiaries for that purpose, namely:—

The President of the United States of America, the Honorable John A. Kasson, Special Commissioner Plenipotentiary, etc. and

His Majesty the King of Italy, His Excellency the Baron S. Fava, Senator of the Kingdom, his Ambassador at Washington, etc.,

Who being duly empowered thereunto have agreed upon the following Articles.

ARTICLE I.

It is agreed on the part of the United States, pursuant to and in accordance with the provisions of the third Section of the Tariff Act of the United States approved July 24, 1897, and in consideration of the concessions hereinafter made on the part of Italy in favor of the products and manufactures of the United States, that the existing duties imposed upon the following articles being the product of the soil or industry of Italy imported into the United States shall be suspended during the continuance in force of this Agreement, and in place thereof the duties to be assessed and collected thereon shall be as follows, namely:—

* * * [Schedule follows] * * *

ARTICLE II.

It is reciprocally agreed on the part of Italy, in consideration of the provisions of the foregoing Article, that so long as this Convention shall remain in force the duties to be assessed and collected on the following described merchandise, being the product of the soil or industry of the United States, imported into Italy shall not exceed the rates hereinafter specified, namely:—

* * * [Schedule follows] * * *

ARTICLE III

This Agreement is subject to the approval of the Italian Parliament. When such approval shall have been given, and official notification shall have been given to the United States Government of his Majesty's ratification, the President shall publish his proclamation, giving full effect to the provisions contained in Article I

of this Agreement. From and after the date of such proclamation this Agreement shall be in full force and effect, and shall continue in force until the expiration of the year 1903, and if not denounced by either Party one year in advance of the expiration of said term shall continue in force until one year from the time when one of the High Contracting Parties shall have given notice to the other of its intention to arrest the operation thereof.

In witness whereof we the respective Plenipotentiaries have signed this Agreement, in duplicate, in the English and Italian texts, and have affixed thereunto our respective seals.

Done at Washington this eighth day of February, A. D. one thousand and nine hundred.

JOHN A. KASSON [SEAL]
FAVA [SEAL]

AGREEMENT BETWEEN THE UNITED STATES AND GERMANY.

Concluded at Washington, July 10, 1900.

The Undersigned, on behalf of their respective Governments have concluded the following Commercial Agreement.

I. In conformity with the authority conferred on the President in Section 3 of the Customs Act of the United States approved July 24, 1897, it is agreed on the part of the United States that the following products of the soil and industry of Germany imported into the United States shall, from and after the date when this Agreement shall be put in force, be subject to the reduced Tariff rates provided by said Section 3, as follows:—

* * * [Schedule follows] * * *

II. Reciprocally the Imperial German Government guarantees to the products of the United States on their entry into Germany the Tariff rates which have been conceded by the Commercial Treaties concluded during the years 1891–1894 between Germany on the one part, and Belgium, Italy, Austria-Hungary, Roumania, Russia, Switzerland and Serbia on the other part.

Moreover, the Imperial German Government will as soon as this Agreement shall be put in force, annul the regulations providing that the dried or evaporated fruits imported from the United States into Germany be inspected on account of the San Jose scale. These fruits shall during the continuance in force of this Agreement be admitted into Germany without other charges than the payment of the Customs duties to which they may now or in future be subject by law.

III. From and after the date of the President's Proclamation which shall give effect to this Agreement, the same shall be in force and shall continue in full force until three months from the date when either Party shall notify the other of its intention to terminate the same.

Done in duplicate in English and German texts at Washington this tenth day of July one thousand nine hundred.

JOHN HAY [SEAL]
Secretary of State of the United States of America.

HOLLEBEN [SEAL]
Ambassador Extraordinary and Plenipotentiary of His Imperial and Royal Majesty the German Emperor, King of Prussia.

AMENDATORY AND ADDITIONAL AGREEMENT TO THE COMMERCIAL AGREEMENT OF MAY 28, 1898, BETWEEN THE UNITED STATES AND THE FRENCH REPUBLIC

Signed at Washington, August 20, 1902
Proclaimed, August 22, 1902

The United States of America and the French Republic, finding it expedient to amend the Commercial Agreement between the two countries, signed at Washington on the 28th day of May, 1898, have named for this purpose their respective Plenipotentiaries, to wit:—

The President of the United States of America, the Honorable Alvey A. Adee, Acting Secretary of State of the United States of America; and

The President of the French Republic, Mr. Pierre de Margerie, Charge d'Affaires of France at Washington;

Who, after having communicated each to the other their respective full powers, found to be in good and due form, have agreed to the following additional and amendatory articles to be taken as part of said Agreement:

ARTICLE I.

The High Contracting Parties mutually agree that the provisions of the said Agreement shall apply also to Algeria and the Island of Porto Rico. It is further agreed on the part of the French Republic that coffee, the product of Porto Rico, shall enjoy until the 23rd day of February, 1903, the benefit of the minimum customs tariff of France on that article.

ARTICLE II.

This Amendatory and Additional Agreement shall take effect from and after the date of the President's Proclamation which shall give effect thereto, and shall be and continue in force during the continuance in force of the said Commercial Agreement, signed May 28, 1898.

Done in duplicate in English and French texts at Washington this twentieth day of August, one thousand nine hundred and two.

ALVEY A. ADEE [SEAL]
PIERRE DE MARGERIE [SEAL]

AN ADDITIONAL AND AMENDATORY AGREEMENT TO THE COMMERCIAL AGREEMENT OF MAY 22, 1899, BETWEEN THE UNITED STATES AND PORTUGAL

SIGNED AT WASHINGTON, NOVEMBER 19, 1902
PROCLAIMED JANUARY 24, 1907

The President of the United States of America and His Most Faithful Majesty the King of Portugal and of the Algarves, finding it expedient to amend the Commercial Agreement between the two countries, signed at Washington on the 22nd day of May, 1899, have named for this purpose their respective Plenipotentiaries, to wit:

The President of the United States of America, the Honorable John Hay, Secretary of State of the United States, and

His Most Faithful Majesty, the Viscount de Alte, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Washington;

Who, after having communicated each to the other their respective full powers, found to be in good and due form, have agreed upon the following additional and amendatory Articles to be taken as part of the said Agreement:

ARTICLE I

The High Contracting Parties mutually agree that the provisions of the said Agreement shall apply also to the Island of Porto Rico.

ARTICLE II

This Additional and Amendatory Agreement shall be ratified by His Most Faithful Majesty so soon as possible, and upon official notice thereof the President of the United States shall issue his Proclamation giving full effect to the same. From and after the date of such Proclamation this Agreement shall take effect, and shall continue in force during the continuance in force of the said Commercial Agreement signed May 22, 1899.

Done in duplicate in English and Portuguese texts at Washington this nineteenth day of November, one thousand nine hundred and two.

JOHN HAY [SEAL]
VISCONDE DE ALTE [SEAL]

Commercial Agreement Between the United States and Spain

Signed at San Sebastian August 1, 1906
and
Explanatory Notes Exchanged at Madrid, December 20, 1906.

The Government of the United States of America and in its name His Excellency Mr. William Miller Collier, Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of Spain, and the Government of His Catholic Majesty the King of Spain, and in its name His Excellency M. Pio Gullon e Iglesias, Grand Cross of the Red Eagle of Prussia, of Leopold of Belgium, of St. Olaf of Norway, of St. Stephen of Hungary, etc. etc. Life Senator, Member of the Royal Academy of Political and Moral Sciences, Minister of State, desiring to promote the mutual trade interests of the two countries and the former having proposed to the latter the concession by Spain of the most favored nation treatment (Portugal excepted) in exchange for the tariff treatment which on the part of the United States is considered (if the treatment accorded to Cuba be excepted) as the most favored nation treatment, that is, that made by the concessions made to various countries in the articles comprehended in Section three of the American tariff:—

It is hereby in behalf of the said two Governments agreed as follows:—

I. The following mentioned products and manufactures of Spain exported from Spain to the United States, shall upon their entrance into the United States be dutiable as follows:—

* * * [Schedule follows.] * * *

II. The products and manufactures of the United States will pay duty at their entrance into Spain at the rates now fixed in the second column of the Spanish tariff, it being understood that every decrease of duty accorded by Spain by law or in the commercial pacts now made or which in future are made with other nations will be immediately applicable to the United States, exception only being made of the special advantages conceded to Portugal.—

III. The present arrangement will enter into effect as soon as the necessary decress and proclamations can be promulgated in both countries and it will thereafter continue in force until one year after it has been denounced by either of the High Contracting Parties. Each of the High Contracting Parties, however, shall have the right to rescind forthwith any of its concessions herein made by it, if the other at any time shall withhold any of its concessions or shall withhold any of its tariff benefits now or hereafter granted to any third Nation, exception being made of the special benefits now or hereafter given by Spain to Portugal and those now or hereafter given by the United States to Cuba.—

IV. The Government of His Catholic Majesty will forthwith issue the necessary decrees and orders and the President of the United States will thereupon, at once, make the necessary proclamation.—

Made, in duplicate, in San Sebastian, August the first one thousand nine hundred and six.

William Miller Collier.
Pio Gullon.

Exchange of Notes on December 20, 1906, Concerning the Meaning and Effect of the Second Paragraph of the Agreement.

American Legation,
Madrid, December 20, 1906.

Excellency:

I have the honor to inform you that the Government of the United States, acceding to the desire of His Majesty's Government to clear up certain obscurities in the text of the Agreement, concluded between Spain and the United States on August 1st. 1906, and to effectuate the intention of the two nations to concede reciprocally the most favored nation treatment, has authorized me to agree that the following shall be deemed to be the true meaning and effect of the second paragraph of the Agreement.

The products and manufactures of the United States will pay at their entrance into Spain at the rates of the second or minimum tariff of the Spanish tariff law, it being understood that every decrease of duty accorded by Spain by law or in the commercial pacts now made, or which in future shall be made with other nations will be immediately applicable to the United States, exception only being made of the special advantages conceded to Portugal.

It is also agreed that the words United States wherever used in the said Agreement shall be deemed to include the territories and possessions of the United States to which the general tariff laws governing imports into the states admitted into the Union are applied.

The above is to be taken as the accepted construction of the existing Agreement, and as the measure of the respective rights of the two countries thereunder.

I avail myself of this occasion to renew to Your Excellency the assurances of my highest consideration.

ROBERT M. WINTHROP,
Charge d'Affaires ad-interim.

His Excellency
D. JUAN PEREZ CABALLERO,
Minister of State.

[Translation]

MINISTRY OF STATE,
Madrid, December 20, 1906.

DEAR SIR:

In answer to your note of this date in which having been duly authorized to clear up, as desired by His Majesty's Government, certain obscurities in the text of the Agreement concluded between the United States and Spain on August 1st, last, and to effectuate the intention of the two nations to concede reciprocally the most favored nation treatment, you express the true meaning which is to be given to the second paragraph of the said Agreement, I have the honor to inform you in the name of His Majesty's Government that, in accord with what is stated in your Note, the true meaning of said paragraph shall be deemed to be as follows:

The products and manufactures of the United States will pay at their entrance into Spain at the rates of the second or minimum tariff of the Spanish tariff law, it being understood that every decrease of duty accorded by Spain by law or in the commercial pacts now made, or which in future shall be made with other nations will be immediately applicable to the United States, exception only being made of the special advantages conceded to Portugal.

It is also agreed that the words United States whenever used in the said Agreement shall be deemed to include the territories and possessions of the United States to which the general tariff laws governing imports into the States admitted into the Union are applied.

The above is to be taken as the accepted construction of the existing Agreement, and as the measure of the respective rights of the two countries under the said Convention.

I avail myself of this occasion to renew to you the assurances of my distinguished consideration.

/s/ J. PEREZ CABALLERO

Mr. ROBERT M. WINTHROP,
Charge d'Affaires of the United States of America.

COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND GERMANY, SIGNED AT WASHINGTON, APRIL 22, 1907; AT LEVICO, MAY 2, 1907.

The President of the United States of America, on the one hand, and His Majesty the German Emperor, King of Prussia, in the name of the German Empire, on the other, animated by a desire to adjust the commercial relations between the two countries until a comprehensive commercial treaty can be agreed upon, have decided to conclude a temporary Commercial Agreement, and have appointed as their Plenipotentiaries for that purpose, to wit:

The President of the United States of America, the Honorable Elihu Root, Secretary of State of the United States; and

His Majesty the German Emperor, King of Prussia, His Excellency Baron Speck von Sternburg, His Ambassador Extraordinary and Plenipotentiary to the United States of America,

Who, after an exchange of their respective full powers, found to be in due and proper form, have agreed upon the following Articles:

ARTICLE I.

In conformity with the authority conferred on the President of the United States in Section 3 of the Tariff Act of the United States approved July 24, 1897, it is agreed on the part of the United States that the following products of the soil and industry of Germany imported into the United States shall, from and after the date when this Agreement shall be put in force, be subject to the reduced Tariff rates provided by said Section 3, as follows:

* * * [Schedule follows] * * *

ARTICLE II.

It is further agreed on the part of the United States that the modifications of the Customs and Consular Regulations set forth in the annexed diplomatic note, and made a part of the consideration of this Agreement, shall go into effect as soon as possible and not later than from the date when this Agreement shall be put in force.

ARTICLE III.

Reciprocally, the Imperial German Government concedes to the products of the soil and industry of the United States enumerated in the attached list upon their importation into Germany the rates of duty indicated therein.

ARTICLE IV.

The provisions of Articles I and III shall apply not only to products imported directly from the country of one of the contracting parties into that of the other, but also to products which are imported into the respective countries through a third country, so long as such products have not been subject to any further processes of manufacture in that country.

ARTICLE V.

The present Agreement shall apply also to countries or territories which are now or may in the future constitute a part of the Customs territory of either contracting party.

ARTICLE VI.

The present Agreement shall be ratified by His Majesty the German Emperor, King of Prussia, as soon as possible, and upon official notice thereof the President of the United States shall issue his proclamation giving full effect to the respective provisions of this Agreement.

This Agreement shall take effect on July 1, 1907, and remain in force until June 30, 1908. In case neither of the contracting parties shall have given notice six months before the expiration of the above term of its intention to terminate the said Agreement, it shall remain in force until six months from the date when either of the contracting parties shall notify the other of its intention to terminate the same.

Done in duplicate in English and German texts.

In testimony whereof, the Plenipotentiaries above mentioned have subscribed their names hereto at the places and on the dates expressed under their several signatures.

ELIHU ROOT [SEAL.]

WASHINGTON, *April 22, 1907.*

STERNBURG. [SEAL]

LEVICO, *May 2, 1907.*

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, April 22, 1907.

EXCELLENCY:

Referring to the Commercial Agreement signed this day between the Imperial German Government and the Government of the United States, I have the honor to inform you that instructions to the customs and consular officers of the United States and others concerned will be issued to cover the following points and shall remain in force for the term of the aforesaid Agreement:

A.

Market value as defined by section 19 of the Customs Administrative Act shall be construed to mean the export price whenever goods, wares, and merchandise are sold wholly for export, or sold in the home market only in limited quantities, by reason of which facts there can not be established a market value based upon the sale of such goods, wares, and merchandise in usual wholesale quantities, packed ready for shipment to the United States.

B.

Statements provided for in section 8 of the Customs Administrative Act are not to be required by consular officers except upon the request of the appraiser of the port, after entry of the goods. The Consular Regulations of 1896, paragraph 674, shall be amended accordingly.

C.

In reappraisement cases, the hearing shall be open and in the presence of the importer or his attorney, unless the Board of Appraisers shall certify to the Secretary of the Treasury that the public interest will suffer thereby; but in the latter case the importer shall be furnished with a summary of the facts developed at the closed hearing upon which the reappraisement is based.

D.

The practice in regard to "personal appearance before consul," "original bills," "declaration of name of ship," shall be made uniform in the sense—

1. That the personal appearance before the consular officer shall be demanded only in exceptional cases, where special reasons require a personal explanation.

2. That the original bills are only to be requested in cases where invoices presented to the consular officer for authentication include goods of various kinds that have been purchased from different manufacturers at places more or less remote from the consulate and that these bills shall be returned after inspection by the consular officer.

3. That the declaration of the name of the ship in the invoice shall be dispensed with whenever the exporter at the time the invoice is presented for authentication is unable to name the ship.

Paragraph 678 of such regulations, as amended March 1, 1906, shall be further amended by striking out the words: "Whenever the invoice is presented to be consulated in a country other than the one from which the merchandise is being directly exported to the United States." and by inserting after the first sentence the following clause: "As place, in which the merchandise was purchased, is to be considered the place where the contract was made, whenever this was done at the place where the exporter has his office."

Paragraph 681 of the Consular Regulations of 1896 relative to "swearing to the invoice" shall be revoked.

E.

Special agents, confidential agents, and others sent by the Treasury Department to investigate questions bearing upon customs administration shall be accredited to the German Government through the Department of State at Washington and the Foreign Office at Berlin, and such agents shall cooperate with the several chambers of commerce located in the territory apportioned to such agents. It is hereby understood that the general principle as to personæ gratæ shall apply to these officials.

F.

The certificates as to value issued by German chambers of commerce shall be accepted by appraisers as competent evidence and be considered by them in connection with such other evidence as may be adduced.

Accept, Excellency, the renewed assurance of my highest consideration.

ELIHU ROOT.

COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND THE NETHERLANDS

Signed at Washington, May 16, 1907
Ratified by the Netherlands, July 11, 1908
Proclaimed, August 12, 1908

The President of the United States and Her Majesty the Queen of the Netherlands, mutually desiring by means of a Commercial Agreement to facilitate the commercial intercourse between the two countries, have appointed for that purpose their respective plenipotentiaries, namely:

The President of the United States of America, Elihu Root, Secretary of State of the United States; and

Her Majesty the Queen of the Netherlands, Jonkheer R. de Marees van Swinderen, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States;

Who, having exchanged their respective full powers, which were found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

It is agreed on the part of the United States, pursuant to and in accordance with the provisions of the third section of the Tariff Act of the United States approved July 24, 1897, and in consideration of the concessions hereinafter made on the part of the Netherlands in favor of the products of the soil and industry of the United States, that products of the industry of the Netherlands imported into the United States, shall, from and after the date when this Agreement shall be put in force, be subject to the reduced tariff duty provided by said Section 3.

* * * [Schedule follows] * * *

ARTICLE II.

Reciprocally and in consideration of the preceding concession, the Royal Government of the Netherlands agrees that, during the continuance in force of this Agreement, the duties imposed upon the following named products of the industry of the United States imported into the Netherlands shall not exceed the tariff rates hereinafter specified, viz:

* * * [Schedule follows] * * *

ARTICLE III.

[Additional concession by the Netherlands.]

ARTICLE IV.

It is mutually agreed by the High Contracting Parties that in the event that the Royal Government of the Netherlands shall, at any time during the continuance in force of this Agreement, withdraw from any product of the soil or industry of the United States imported into the Netherlands the benefit of the lowest tariff rates imposed by the Netherlands upon a like product of any other origin, either Party shall thereupon have the right to terminate this Agreement upon giving to the other three months' prior notice of its intention to do so.

ARTICLE V.

It is further agreed on the part of the United States that the instructions to the Customs Officers set forth in the annexed diplomatic note and made a part of the consideration of this Agreement shall go into effect not later than July 1, 1907.

ARTICLE VI.

This Agreement shall be ratified by the Royal Government of the Netherlands as soon as possible, and upon official notice thereof the President of the United States shall issue his proclamation giving full effect to the provisions of Article I of this Agreement. From and after the date of such proclamation this Agreement shall be in full force and effect, and shall continue in force until one year from the date when either Party shall notify the other of its intention to terminate the same.

Done in duplicate, in the English and Dutch languages, at Washington this 16th day of May, one thousand nine hundred and seven.

ELIHU ROOT [SEAL]
R. DE MAREES VAN SWINDEREN [SEAL]

DEPARTMENT OF STATE,
Washington, May 16, 1907.

SIR: Referring to the Commercial Agreement signed this day between the Government of the Netherlands and the Government of the United States, I have the honor to inform you that instructions will be issued to the Customs Officers of the United States to the following effect:—

"Market value as defined by section 19 of the Customs Administrative Act shall be construed to mean the export price whenever goods, wares, and merchandise are sold wholly for export, or sold in the home market only in limited quantities, by reason of which facts there can not be established a market value based upon the sale of such goods, wares, and merchandise in usual wholesale quantities, packed ready for shipment to the United States."

These instructions shall take effect not later than July 1, 1907, and shall remain in force thereafter for the term of the aforesaid Agreement. In pursuance thereof the export price of Maastricht pottery imported into the United States from the Netherlands under the conditions described in your Note of March 23, 1907, shall be accepted by the customs officers of the United States as the true market value of the aforesaid articles of merchandise.

Receive, Mr. Minister, the renewed assurance of my highest consideration.

ELIHU ROOT

JONKHEER R. DE MAREES VAN SWINDEREN,
Minister of the Netherlands.

ADDITIONAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND FRANCE SIGNED AT WASHINGTON JANUARY 28, 1908

The Government of the United States of America and the Government of the French Republic, considering it appropriate to supplement by a new additional Agreement the Commercial Agreements signed between the two countries, at Washington, on May 28, 1898, and August 20, 1902, respectively, have appointed as their Plenipotentiaries, to wit:

The President of the United States of America, the Honorable Elihu Root, Secretary of State of the United States; and

The President of the French Republic, His Excellency J. J. Jusserand, Ambassador of the French Republic to the United States of America,

Who, after an exchange of their respective full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE I.

It is agreed, on the part of the French Government, that the application of the duties of the general tariff to coffee, cacao, chocolate, vanilla and other food products known in the French tariff laws as "denrees coloniales de consommation," except sugar and its by-products and tobacco, products of the United States, including Porto Rico, shall be conditionally suspended and that the said products shall be admitted into France and Algeria at the rates of the minimum tariff or at the lowest rates applied to the like products of any other foreign origin.

In addition, mineral oils from the United States and coming under the decree of July 7, 1893, shall upon entry into France and Algeria enjoy the benefits of the lowest rates of duty.

But it is expressly understood that these concessions may be withdrawn in the discretion of the President of the French Republic whenever additional duties beyond those now existing and which may be deemed by him unjust to the commerce of France shall be imposed by the United States on products of France.

ARTICLE II.

It is reciprocally agreed on the part of the United States, in accordance with the provisions of Section 3 of the United States Tariff Act of 1897, that the rates of duty heretofore imposed and collected, under the said Act, on Champagne and all other French sparkling wines upon entering the United States and the Island of Porto Rico shall be conditionally suspended and, instead, the following duties shall be imposed and collected, to wit:

On Champagne and all other sparkling wines, in bottles containing not more than one quart and more than one pint, six dollars per dozen; containing not more than one pint each and more than one-half pint, three dollars per dozen; containing one-half pint each or less, one dollar and fifty cents per dozen; in bottles or other vessels containing more than one quart each, in addition to six dollars per dozen bottles on the quantities in excess of one quart, at the rate of one dollar and ninety cents per gallon.

But it is expressly understood that this concession may be withdrawn in the discretion of the President of the United States whenever additional duties beyond those now existing and which may be deemed by him unjust to the commerce of the United States shall be imposed by France on products of the United States.

ARTICLE III.

It is further agreed that, inasmuch as complaints have arisen in both countries regarding the effect of the regulations in force in the respective countries affecting the admission of each other's products, and to the end that if there be in the regulations of either country any provisions which unnecessarily restrict trade, such provisions may be modified, and the cause of complaint removed, a commission of three experts shall be appointed by the Government of the United States and a like commission of three experts shall be appointed by the Government of France. Such Commissions shall in conference each with the other inquire into and ascertain fully the existing conditions in each country as bearing upon the necessity of the regulations affecting the trade of the other country and as bearing upon the practicability of reciprocal tariff concessions. Each commission shall report to its own Government thereon.

It is further agreed that upon the basis of the report so made the two Governments shall enter upon an exchange of views to the end that if possible all cause of complaint in their respective regulations regarding the admission of any of the products of either country to the other may be removed.

ARTICLE IV.

This additional Agreement shall take effect and be in force on and after the first day of February, one thousand nine hundred and eight, and shall continue in force so long as the Agreements signed on May 28, 1898, and August 20, 1902, shall remain in force.

Done in duplicate in English and French texts at Washington, this twenty-eighth day of January, one thousand nine hundred and eight.

ELIHU ROOT [SEAL]
JUSSERAND [SEAL]

SUPPLEMENTAL COMMERCIAL AGREEMENT EFFECTED BY EXCHANGE OF NOTES BETWEEN UNITED STATES AND SPAIN

Signed at Washington, February 20, 1909

Serial No.

DEPARTMENT OF STATE,
Washington, February 20, 1909.

SIR: In order to meet the wishes of your Government in the matter of the extension to Spain of the authorized reduction in the tariff duties of the United States on Spanish sparkling wines, and in order to remove any possible ground for the exercise by your Government of the right under Article III of the Commercial Agreement signed between the two countries on August 1, 1906, to rescind any of its concessions made therein to the United States, I have the honor to inform you that the President of the United States deems the concessions made by Spain in favor of the products and manufactures of the United States as reciprocal and equivalent to the grant by the Government of the United States

of the reduced duties on all the articles of Spanish production and exportation enumerated in Section 3 of the Tariff Act of the United States approved July 24, 1897.

I have therefore the honor to inform you that the President of the United States will issue his proclamation suspending the duties on sparkling wines produced in and exported from Spain and substituting therefor the reduced duties authorized by Section 3 of the Dingley Tariff.

I should be glad to be informed by you as to whether this action, supplementary to the Agreement of August 1, 1906, will meet completely the wishes of your Government in the matter.

Accept, Sir, the renewed assurances of my highest consideration.

ROBERT BACON.

Senor DON RAMON PINA,
Minister of Spain.

SPANISH LEGATION,
Washington, February 20, 1909.

Mr. SECRETARY: I have the honor to acknowledge the receipt of your note of this date, in which, while advising me that in order to meet the wishes of your Government in the matter of the extension to Spain of the authorized reduction in the tariff duties of the United States on Spanish sparkling wines, and in order to remove any possible ground for the exercise by my Government of the right under Article III of the Commercial Agreement signed between the two countries on August 1, 1906, to rescind any of its concessions made therein to the United States, you also informed me that the President of the United States deemed the concession made by Spain in favor of the products and manufactures of the United States as reciprocal and equivalent to the grant by the Government of the United States of the reduced duties on all articles of Spanish production and exportation enumerated in Section 3 of the Tariff Act of July 24, 1897, will issue his proclamation suspending the present duties on sparkling wines produced in or exported from Spain and substituting therefor the reduced duties authorized by Section 3 of the Dingley law. I thank Your Excellency for the proposed action which you were pleased to make known to me and I agree in every particular of the way suggested by Your Excellency for this additional part of the agreement of August 1, 1906. I avail myself of this occasion to reiterate to your Excellency the assurance of my highest consideration.

R. PINA Y MILLET.

Hon. ROBERT BACON,
Secretary of State.

SUPPLEMENTARY COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND ITALY

Signed at Washington, March 2, 1909
Proclaimed, April 24, 1909.

The President of the United States of America and His Majesty the King of Italy, considering it appropriate to supplement by an Additional Agreement the Commercial Agreement signed between the two Governments at Washington on February 8, 1900, have appointed as their plenipotentiaries, to wit:

The President of the United States of America, the Honorable Robert Bacon, Secretary of State of the United States; and

His Majesty the King of Italy, His Excellency the Baron Mayor des Planches, His Ambassador Extraordinary and Plenipotentiary at Washington,

Who, after an exchange of their respective full powers, found to be in due and proper form, have agreed upon the following Articles:

ARTICLE I.

It is agreed on the part of the United States, in accordance with the provisions of section 3 of the Tariff Act of the United States approved July 24, 1897, that the rates of duty heretofore imposed and collected, under the said Act, on Italian sparkling wines upon entering the United States, including the Island of Porto Rico, shall be suspended during the continuance in force of this agreement, and, instead, the following duties shall be imposed and collected, to wit:

* * * [Concession follows] * * *

ARTICLE II.

It is reciprocally agreed on the part of Italy, in consideration of the provisions of the foregoing Article, that during the term of this Additional Agreement
* * * [Concession follows] * * *

ARTICLE III.

When official notification of His Majesty's ratification shall have been given to the Government of the United States, the President of the United States shall publish his proclamation, giving full effect to the provisions contained in Article I of this Agreement. From and after the date of such proclamation this Agreement shall be in full force and effect, and shall continue in force until the expiration of one year from the time when either of the High Contracting Parties shall have given notice to the other of its intention to terminate the same.

In witness whereof we, the respective Plenipotentiaries, have signed this Agreement, in duplicate, in the English and Italian texts, and have affixed hereunto our respective seals.

Done at Washington, this second day of March, A. D. one thousand nine hundred and nine.

ROBERT BACON [SEAL]
E. MAYOR DES PLANCHES [SEAL]

Senator MILLIKIN. I would like to have the content of them, but not the schedules.

This general agreement on tariffs and trade, referred to as the Geneva agreement, or referred to as GATT, opens up with this general statement of policy.

I bother to read it, Senator, because most of the rest of it is directly connected with the provisions in ITO. But I think we ought to have the complete preliminary context.

It states [reading]:

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 Luxembourg, 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 North Ireland, and the United States of America:

Recognizing that their relations in the field of trade and economic endeavor 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:

Mr. Brown, what is there in the Reciprocal Trade Agreements Act of 1934 that has to do with raising standards of living? There are some emergency clauses in there that dealt with our own situation at home.

Mr. BROWN. As I have stated, I am not prepared nor qualified to give a legal opinion as to the specific authority in the Trade Agreements Act or in the Constitution or any other legal document for the negotiation of the specific provisions of this agreement. I will do my best to provide you with a statement from someone who can.

Senator MILLIKIN. Do you have anyone with you?

Mr. BROWN. No, sir; I do not.

Senator MILLIKIN. There are going to be many inquiries as to the authority for these various provisions, and the sooner you get someone here, the better.

But go ahead.

Mr. BROWN. I would like to say, Senator, that we are a member of the United Nations. One of the principal objectives of the United Nations is the promotion of higher standards of living, full employment, conditions of economic and social progress and development, and the solution of international economic problems by cooperation. It would seem to me that the objectives stated in this agreement are fully consistent with the objectives that this country has accepted in its membership in the United Nations and in the Economic and Social Council of the United Nations.

Senator MILLIKIN. I suggest that that may be correct, but I suggest that you are making this agreement under your authority under the Reciprocal Trade Agreements Act.

Now, let us go on with that just a little bit. I think it will give a glimpse of the swollen character of this whole thing by just taking a few of these things that come into the preamble.

You are talking here about raising the standards of living. You are talking here about ensuring full employment. What is there in the Reciprocal Trade Agreements Act for ensuring full employment over the world?

Mr. BROWN. Nothing, sir. But there is something in it about helping employment in the United States.

Senator MILLIKIN. I agree.

Mr. BROWN. And I would like to say, Senator, that I would not think that it would be necessary to have specific legal authority to agree to a statement of objectives which I am sure everyone in this country would agree are desirable: that we are all working together, that our field of economic activity in this country nationally and internationally is to achieve by our own constitutional measures higher standards of living for everyone, and employment, and a high level of real income and effective demand. This is a statement of objectives. We are desirous of contributing to those objectives.

Then, in order to do that, we undertake certain commitments, later on in the agreement.

Senator MILLIKIN. I am merely suggesting that the commitments which you make later on in the agreement should accord with the authority which is given you to enter into the agreement. And I suggest to you that there is nothing in your basic authority that has to do with the raising of standards of living other than in the United States, or that has anything to do with insuring full employment.

At that point let me pause to say that I think everybody would like to see full employment. But there is a great field of political difference as to how you are going to achieve it, and there might be a tremendous amount of controversy about that; although we can express the general moral wish that we all want full employment.

We had a big debate here in the Senate on that, and there will be others, probably, if similar mesaures come up. Senator George will remember that very well.

Now, you are talking about developing the full use of the resources of the world. There is nothing in the Reciprocal Trade Act that

authorizes you to make a plan to develop the full use of the resources of the world, or even of the United States. I am just wondering what your authority was. That is all.

Mr. BROWN. There is authority to negotiate trade agreements and tariff changes.

Senator MILLIKIN. Certainly.

Mr. BROWN. And that is the method to which this agreement addresses itself.

Senator MILLIKIN. Can you make that a little clearer for me?

Mr. BROWN. I say that the Trade Agreements Act does give the President authority to negotiate changes in the tariff.

Senator MILLIKIN. Oh, yes. But are you negotiating the changes in the Tariff Act, complying with the purposes of the act under which you are acting, or are you making the changes to meet objectives which are not within the purposes of the act under which you are operating?

Mr. BROWN. On the legal point, I repeat, I am not qualified. But as a layman, I would say the two are not at all inconsistent.

Senator MILLIKIN. Well, as a layman, I think you could say that no man is ever guilty of sin if he proclaims virtue.

Mr. BROWN. I don't think as a layman I would say that, sir.

Senator MILLIKIN. Now we come to part I, article I, "General Most-Favored-Nation Treatment." I shall read it, and then you will have to comment on it, and then we will compare it to what may be a comparable article.

Mr. BROWN. You have my copy, sir, of the comparisons, so I am at a disadvantage.

Senator MILLIKIN. It is as uncomfortable for me as for you.

Mr. BROWN. I will do my best with the other document.

Senator MILLIKIN. Let us see if the galley prints have come yet.

Mr. BROWN. I think I can manage all right, Senator.

Senator MILLIKIN. I would feel embarrassed if we are not both looking at the same thing, and I do not want to unduly inconvenience you.

I will go ahead with the reading of this, and we will get that behind us. [Reading:]

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, favor, 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.

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 neighboring 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 schedule 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-favored-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-forward-nation rate is provided for, the margin shall not exceed the difference between the most-favored-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-favored-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 in subparagraphs (a) and (b) of this paragraph shall be replaced by the respective dates set forth in that Annex.

Now, then, later on, you had some interpretations of that.

Mr. BROWN. There are two interpretations of that.

Senator MILLIKIN. Would you mind giving those to us, Mr. Brown?

Mr. BROWN. The first one is simply mathematical illustrations of what is meant by the "margin of preference," to show that it is an absolute figure and not a percentage figure.

The second one is that in certain cases countries had a law in force on the base date which permitted the establishment of a certain margin of preference, but by administrative decision, for some reason, perhaps a wartime emergency or otherwise, that margin was not in effect. What this interpretative note says is that doing what the law in effect at that time allowed would not be considered a violation of the commitment not to expand the margin of preference.

Senator MILLIKIN. In other words, that would continue the preference as of a deadline date.

Mr. BROWN. Yes, sir. That is the substance of the two notes.

Senator MILLIKIN. Now, what is the difference in content between the article which has been read and article 16 of the proposed International Trade Organization?

Mr. BROWN. No difference in substance.

Senator MILLIKIN. What is the difference insofar as the exact language is concerned?

Mr. BROWN. Well, there are different members, referred to as "contracting parties."

Senator MILLIKIN. That will appear all through here, will it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. The contracting parties in GATT take the place of the members under ITO. Is that correct?

Mr. BROWN. The language reflects that difference. Yes, sir.

Then there is a paragraph 5 in the charter article which does not appear in the GATT article.

Senator MILLIKIN. Now, taking paragraph 1 of GATT——

Mr. BROWN. May I also say, Senator, that this article is one which has always appeared in varying forms in all of our previous trade agreements.

Senator MILLIKIN. The language of paragraph 1 of that part of GATT which has been read, and article 16, paragraph 1, of the proposed International Trade Organization, are verbatim the same; are they not?

Mr. BROWN. With the change, the formal change, that we have referred to.

Senator MILLIKIN. That is right.

Mr. BROWN. May we disregard that in the future?

Senator MILLIKIN. Yes; let us disregard that, so that we will not be talking about it all the time. I am inclined to emphasize it a bit, but in the interests of saving time, we will do that.

When was article 16 of the proposed International Trade Organization drafted in its present form?

Mr. BROWN. I couldn't tell you.

Senator MILLIKIN. It preceded the drafting of the comparable article?

Mr. BROWN. As I have said before, what happened was that we sat down to deal with certain subject matter, and we drafted articles to deal with that subject matter. It was contemplated that those articles would appear both in the agreement and in the charter, because of the fact that the charter was a broader document which embraced within it some of the subject matter that we would normally cover in the trade agreement.

It went through various permutations and changes in drafting in the course of its development.

Senator MILLIKIN. Can you tell me whether it is in the language which the State Department suggested as the draft to be considered at the first international conference?

Mr. BROWN. It is not in the language of our initial suggestion; no, sir.

Senator MILLIKIN. The initial suggestion merely contained outlines; is that not correct?

Mr. BROWN. We had an article covering this subject matter in our original suggested charter, which appeared in September 1946, but that was changed during the course of the negotiations.

Senator MILLIKIN. But under the permutations to which you have referred, article 16 of ITO and part of article I of GATT are now, with very minor differences which you have pointed out, not only the same in substance, but the same in language. Correct?

Mr. BROWN. That is substantially correct, Senator.

Senator MILLIKIN. Now we come to your authority for entering into this article, and you have said that that appears roughly in all of your trade-agreement programs. Correct? Where else does it appear?

Mr. BROWN. I believe that the Congress requires us to give most-favored-nation treatment and so we put that clause in the agreement, sir.

Senator MILLIKIN. Yes; that is required by Congress. Was it in any of these more ancient reciprocal trade agreements, conventions, treaties?

Mr. BROWN. I am not familiar with the history of the subject, sir. But I do remember that there was a period when we did not follow the principle of unconditional most-favored-nation treatment, and if my limited recollection serves me correctly, it has been from 1923 to date that it has been the policy of this country to use unconditional most-favored-nation treatment.

Senator MILLIKIN. You feel that this accords with the act of 1930 and it also accords with the act of 1930, as amended, by the Reciprocal Trade Agreements Act?

Mr. BROWN. I do, yes, sir.

Senator MILLIKIN. And this is not one of the provisions as to which you would feel it necessary to refer to the approval of Congress. Is that right?

Mr. BROWN. No, sir.

Senator MILLIKIN. Is there any feature of it that gives you doubt on that score?

Mr. BROWN. I believe there is one minor provision in one of our laws that says that beverages have to be in certain kinds of containers, if they come from one country, and not if they come from another country, and that would have to be changed, but it is of no consequence whatever.

Senator MILLIKIN. Is that the only change?

Mr. BROWN. It is the only change.

Senator MILLIKIN. As we go through here, I will ask you that same question, and I would like to have very specific notice of anything that would require change of the laws of Congress.

Mr. BROWN. I will do my best on that, sir, but you will realize I was not prepared fully on that point.

Senator MILLIKIN. Then you won't fail me in having someone who is qualified in that specialty more than you are, to tell us exactly as to each of these articles. Am I correct in that?

Mr. BROWN. I will do my best.

Senator MILLIKIN. Now, as to those interpretations, what is the significance of them, other than you have already developed, as to that article I?

Mr. BROWN. Are you referring to the square white document?

Senator MILLIKIN. I am referring to GATT now, and what appears to be some subsequent interpretations of the provision.

Mr. BROWN. I have given you the only two that are of substance.

Senator MILLIKIN. All right. We come to article II of GATT. That is Schedules of Concessions. [Reading:]

1. (a) Each contracting party shall accord to the commerce of the other contracting parties treatment no less favorable 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 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 antidumping 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 the 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 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 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 Fund by more than 20 per centum, such specific duties and charges and margins of preference may be adjusted to take count 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 herey made in integral part of Part I of this Agreement.

Then we come into another interpretation.

Now, what relation does that article bear to article 17 of the proposed International Trade Organization charter?

Mr. BROWN. There is no comparable provision in the charter to this article. This is the article that provides for the schedules of concessions.

Senator MILLIKIN. Yes; but there are also references there to exchange adjustments. Are there not any references of that kind in the charter?

Mr. BROWN. Yes. But there are other articles in the general agreement which deal with quantitative restrictions and exchange controls, and there are comparable articles in the charter. There are articles in the charter which are directly comparable to those articles.

These are the standard provisions which we have had in trade agreements from the beginning.

Senator MILLIKIN. Do you see any impact in that agreement on existing Federal legislation?

Mr. BROWN. No, sir.

Senator MILLIKIN. What authority have we to relate exchange problems to decisions of the Monetary Fund?

Mr. BROWN. In this particular case, it is useful to have some frame of reference as to the par value of your currencies for purposes of calculating tariff rates. The Fund judgment was accepted as being an internationally accepted and well-known and public and recognized criterion.

Senator MILLIKIN. I remember that we have had bills pending before this committee where the Congress was requested to establish a formula for conversion of foreign money into our money in connection with duties.

Specifically can you find anything in the Reciprocal Trade Agreements Act which authorizes you to refer your conversion problems to the International Monetary Fund or any other agency?

Mr. BROWN. There is no express provision in the Trade Agreements Act with respect to that; no, sir. But we were given authority to negotiate tariff concessions given and received. Presumably that authority must embrace at least enough provisions to make the results of those negotiations stick.

Senator MILLIKIN. Those who have joined this GATT agreement have agreed that the Monetary Fund shall determine those rates of conversion. Is that right?

Mr. BROWN. No, sir.

Senator MILLIKIN. What have they agreed?

Mr. BROWN. They have agreed that the rates which they have declared to the fund and which have been accepted by the fund will be the rate used.

Senator MILLIKIN. And how do you determine the conversion of money?

Mr. BROWN. This paragraph 6 (a) refers to the par value of the currency of the different parties to the agreement. Those par values, for most of the members have been formally declared to the fund. We have declared a par value; all of the countries have. And that is the official exchange rate which applies. In some cases there is more than one, I think.

Senator MILLIKIN. Now, let us look at the quality of delegation that is involved there. We delegate the power to the President to negotiate reciprocal trade agreements under the terms of the Reciprocal Trade Agreements Act. The Congress has exclusive constitutional jurisdiction over determining the value of foreign money. The Reciprocal Trade Agreements Act does not give the President the right to refer that question to any other body or to any other international agency, or, if you please, to the Monetary Fund in this matter. So we have the delegation to the President. The President turns it over to the State Department. The State Department turns it over in part, as we shall develop to the decision of the contracting parties to this particular agreement, and then it is delegated, as far as establishing the value of foreign money is concerned—I repeat, that is

exclusively a congressional matter—to an international monetary fund.

Now, before I ask you my question, let me make another prefatory statement.

The contracting parties here in most instances, and in this particular matter on currency questions, reach their decisions by majority vote, do they not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. How many nations are there that were members of GATT?

Mr. BROWN. Twenty-three.

Senator MILLIKIN. Twenty-three. We have one vote along with the others?

Mr. BROWN. One vote in the contracting parties, 30 percent of the votes in the fund.

Senator MILLIKIN. Now, what is our situation in the Monetary Fund insofar as voting is concerned?

Mr. BROWN. Approximately 30 percent of the votes.

Senator MILLIKIN. Approximately 30 percent of the vote. And so, so far as filtering it through the contracting parties and GATT is concerned, so far as filtering it through the International Monetary Fund is concerned, we have delegated the determination of the value of foreign money by a process which in the end can put the matter beyond our determination.

Mr. BROWN. No, sir.

Senator MILLIKIN. All right. Will you explain that?

Mr. BROWN. The section to which you are referring says that the specific duties in the schedules are based upon the par values which the countries have declared to the fund. That simply describes what that figure in the schedule represents.

May I proceed?

Senator MILLIKIN. Yes.

Mr. BROWN. Accordingly, it says here, if there is a change of more than a certain amount, there may be an adjustment to take account of it, by a consultation process. The contracting parties have no power whatever to change that par value. They have no power whatever to take any kind of action with respect to it. What they can do, if the par value is changed more than a certain degree from the base which each country has declared, is to permit a compensatory adjustment. That does not involve the power of the Congress to declare a par value or the power of our contracting parties to take any action with respect to the determination of the value of its currency.

Senator MILLIKIN. Now, if any member, or let us not say "any member," but let us say the United States Government, attempted under its constitutional power to set up a system of its own for determining the value of foreign currencies, might it conflict with this provision?

Mr. BROWN. No, sir.

Senator MILLIKIN. Why not?

Mr. BROWN. Because all that would happen would be this: Suppose we changed the par value of our currency from what we have declared to the fund, which we have a perfect right to do under this agreement. We do not have to talk to anybody about it. We do have to talk to

the fund about it. But that is an organization of which we are already a member.

All it would mean is that if, let us assume, the fund agreed, or if we disregarded the fund and went ahead and changed it more than 20 percent, it would then be the case that there would be an effect on all our specific tariff rates. That would affect the value of the concessions that we granted; and a compensatory adjustment could be made in consultation with the other parties to the agreement. But we are perfectly free to do that at any time we desire to do it.

Senator MILLIKIN. We are perfectly free to do what?

Mr. BROWN. To change our par value any way we want, subject to our obligations in the fund, which the Congress has already approved.

Senator MILLIKIN. Yes. Exactly. That is what I was talking about.

All right, let us start over again.

Do you agree that Congress has exclusive jurisdiction under the Constitution to determine the value of foreign money?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. All right.

Now, the Congress has delegated these reciprocal trade matters, to the extent that it has, to the President. That is the first delegation of power.

Now, we find that the question of determining the value of foreign money has been left up to the International Fund.

Mr. BROWN. No, sir; if I may interrupt at that point. Because that is not what this article says.

Senator MILLIKIN. We will have a later article to that effect, will we not?

Mr. BROWN. I do not think so.

Senator MILLIKIN. Then what does this article say?

Mr. BROWN. This article simply says that for the purposes of convenience each country has expressed its specific duties in its schedules in terms of the par value which they have declared to the fund.

Senator MILLIKIN. Yes. And supposing that the fund changes that. Then does it not conform to the changes which the fund makes? Will you answer that question, Mr. Brown?

Mr. BROWN. Well, any country which is a member of the fund can only change its par value with the permission of the fund.

Senator MILLIKIN. All right. The fund has the power to change the par value; has it not?

Mr. BROWN. No, sir. It has the power to agree to a change.

Senator MILLIKIN. All right. It has the power to agree to a change in the par value. And they have all agreed, with certain exceptions, to abide by the decisions of the fund, have they not?

Mr. BROWN. Yes.

Senator MILLIKIN. All right. So the fund in the main impact of the thing has control over the par value of the currency.

Mr. BROWN. And to that extent we have already agreed by our acceptance of membership in the fund.

Senator MILLIKIN. All right. But we did not agree by the Reciprocal Trade Act. Right?

Mr. BROWN. This does not involve any changes in the par value of the currency, sir.

Senator MILLIKIN. Well, I suggest that it does under your own statement. Now, we are going to get this straight, and we are going

to hang with it until we do get it straight. We have a question under GATT as to what is the proper rate of conversion. Where de we find that out?

Mr. BROWN. We don't have that question under GATT, sir, not under this article 6 (a) that we are talking about.

Senator MILLIKIN. We do not have it at any place in GATT?

Mr. BROWN. I thought we were discussing article 6 (a).

Senator MILLIKIN. I say, though, we do not have it any place in GATT?

Mr. BROWN. I am not sure.

Senator MILLIKIN. You are not making the distinction between having it on the desk and in the hand, that you made yesterday, are you?

Mr. BROWN. No, sir. I was trying to address myself to the article to which I thought you wanted me to address myself.

Senator MILLIKIN. Now, will you point out the language that has to do with the fund, to me?

Mr. BROWN. I will, but I will have to point out something else first, to make clear the significance of the reference to the fund.

Senator MILLIKIN. Yes.

Mr. BROWN. This simply says, under 6 (a), that the specific duties included in the schedules of those parties which are members of the fund are expressed in their currency at the par value which has been accepted by the fund. That simply identifies the method of computation which went into those figures that appear in the schedules.

Senator MILLIKIN. Now, what does paragraph 6 (a) say, there?

Mr. BROWN. That is what paragraph 6 (a) says. Accordingly, if there is a change in the way you compute that duty—which, of course, changes the effect of the duty—by more than 20 percent, then there can be adjustments in the duties.

Senator MILLILKIN. Let us read that paragraph again, that paragraph 6 (a). [Reading:]

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 Fund by more than 20 per centum, such specific duties and charges and margins of preference may be adjusted to take account of such reduction.

All right. I contend that eliminating first the question of change, we have bound our conversion rates to the determination of the Monetary Fund; is that correct?

Mr. BROWN. We did that by our membership in the fund.

Senator MILLIKIN. I am talking about what is done here. What do we do here?

Mr. BROWN. We simply say that we make no commitment of any kind with respect to our rate of conversion in this article, no commitment of any kind whatever, other than our commitments which we have taken by congressional authority by membership in the fund.

Senator MILLIKIN. Well, let us see what the language is, again. You are adding some interpretations.

Mr. BROWN. No, sir, I am not.

Senator MILLIKIN. And I am willing that you should do so in discussion, but I do not think you should change the language of the article. [Reading:]

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——

Mr. BROWN. That is a statement of fact. That is not a commitment. That is a description of the way in which the figures were arrived at.

Senator MILLIKIN. All right.

Now it comes time to make a conversion. Do you follow that, Mr. Brown?

Mr. BROWN. We are perfectly free to make the conversion, sir.

Senator MILLIKIN. And you are perfectly free to make it in this way; are you not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And you are required to make it in this way; are you not?

Mr. BROWN. No, sir.

Senator MILLIKIN. You say you can do as you please. That this country can do as it pleases about it?

Mr. BROWN. Under this article. But if it does, if it changes the conversion rate more than 20 percent, then it can make adjustments in the rates which appear in the schedules.

Senator MILLIKIN. That is all right.

Now let us start again.

If you have a conversion to make, you make it according to the powers which have been established by the Monetary Fund. Is that right?

Mr. BROWN. That is not what it says.

Senator MILLIKIN. Well, if you do not do that, what do you change more than 20 percent?

Mr. BROWN. The rate, sir.

Senator MILLIKIN. Yes. And what is the basis; your starting point of change?

Mr. BROWN. The starting point is the rate that we have declared to the fund.

Senator MILLIKIN. And that is in the Monetary Fund?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That is right. It takes a long time to get these things straight.

Mr. BROWN. No, sir. I have said that before.

Senator MILLIKIN. Now, we have stated here, the agreement states, that if you are going to change, you change from the par established by the Monetary Fund.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Does it please you to put it that way?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. So that the part established by the Monetary Fund becomes at least your starting point. Is that right?

Mr. BROWN. That is what I said at the beginning, sir.

Senator MILLIKIN. All right. And you make a change from that. You make a change from that starting point. Yes?

Mr. BROWN. Yes.

Senator MILLIKIN. And if you make a change by more than 20 percent? Is that it?

Mr. BROWN. That is correct.

Senator MILLIKIN. Then you can make adjustments all the way long the line accordingly.

Mr. BROWN. Correct.

Senator MILLIKIN. But still you have your starting point in the pars established by the Monetary Fund.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Coming back to delegation. First we delegate to the President, then the President delegates to the Monetary Fund the establishment of the par.

Mr. BROWN. No, sir. Because that is not the way that it is done. We establish the par, and we declare it to the Monetary Fund. The fund doesn't do it. We do it.

Senator MILLIKIN. Well, now, let us get back to the fund. I am perfectly willing to go into that with you.

Mr. BROWN. You are getting me out of my depth there, sir.

Senator MILLIKIN. The pars of the fund represent the agreement of the members of the fund, but each member was permitted to declare his own par.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And that was accepted. Now, that is what you mean; is it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. But the pars are by agreement between all of the members of the fund. And what you are talking about is how the pars were established. That is correct; is it not?

Mr. BROWN. That is correct.

Senator MILLIKIN. But no matter how established, the pars have been established by agreement between the members of the fund.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. All right. That is our starting place. And the fund, under the agreement of the fund, established those pars, and it established them in that way. Is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. So we have delegated the valuation of foreign money for tariff purposes to the fund.

Mr. BROWN. To the extent that delegation exists, it took place in our acceptance of membership in the fund.

Senator MILLIKIN. The set-up of the fund took place there. But here you are taking the fund as your measuring stick.

Mr. BROWN. Yes.

Senator MILLIKIN. All right.

So heretofore, the Congress has set up its own measuring stick, has had the authority to prescribe its own measuring stick, and has done so. Now, the President has delegated that matter to an international agency. The international agency has the right to change the pars, has it not? I am talking about the Monetary Fund.

Oh, yes; there is no question about it, Mr. Brown. Shall we get the fund agreement?

Mr. BROWN. I don't think it can do so without the consent of the members, but I am not an expert on that.

Senator MILLIKIN. Oh, yes; there is a limit. Up to that limit the country itself can change the par, but then beyond that limit it must have the consent of the fund. That requires, if necessary, the consent of the members of the fund where we have 30 percent of the voting privilege.

Mr. BROWN. I was thinking that normally the way that happens is that someone applies for a change.

Senator MILLIKIN. Normally they do not pay any attention to it. France made a very radical change in her currency, and paid no attention to the fund. But let us stick with the rules. Normally a country can change it itself within certain limits. Normally it can have those limits broadened by consent of the fund. Adn in that fund we have a 30-percent control. And among the contracting parties in the agreement that we are considering here, GATT, we have one vote out of how many?

Mr. BROWN. Twenty-three.

Senator MILLIKIN. One vote out of twenty-three. So that is what has happened to Congress's control over the value of foreign money.

There is not anything of that kind in the Reciprocal Trade Agreements Act, is there?

Mr. BROWN. There is nothing in the Reciprocal Trade Agreements Act about the control of foreign money; no, sir.

Senator MILLIKIN. Do you not think that that is embarking upon a rather large field without having specific power to do it?

Mr. BROWN. No, sir.

Senator MARTIN. What was the answer? I did not get that.

Mr. BROWN. No, sir.

Senator MILLIKIN. Now we have a measuring stick on you as to what might be considered as embarking upon a large field.

Do you have any doubts as to your legal authority to enter into any part of this article?

Mr. BROWN. No, sir.

Senator MILLIKIN. You do not intend to bring any part of that to the attention of the Congress for special action of the Congress except as it may be approved or is approved through ITO?

Mr. BROWN. I don't think so, sir.

Senator MILLIKIN. Do you have any mental reservations on it of any kind?

Mr. BROWN. Only the mental reservation that any layman has in stating a legal conclusion, sir.

Senator MILLIKIN. We want to be very sure before we get through here now. So I am cautioning you again that I want some authoritative advice on these things.

It goes right into the heart of what we are talking about as to your authority, and what further action of Congress must be taken, and the relation of ITO to whatever further approvals you may have to get. And that is important in this particular inquiry.

Give us an explanation of that paragraph that deals with State monopolies, or any kind of a monopoly, and the importation of any product described in the schedules.

Mind you, the monopoly may be established by the contracting party, it may be maintained by the contracting party, or it may be authorized by the contracting party.

Mr. BROWN. The purpose of this is to prevent by the use of the State trading mechanism the abuse of the tariff concession which has been given in the schedule.

Senator MILLIKIN. Do you think you have prevented evasion?

Mr. BROWN. Not completely, sir, no.

Senator MILLIKIN. What do you intend to do about that?

Mr. BROWN. I don't understand what you mean by "what do we intend to do about it."

Senator MILLIKIN. What further action do you intend to take to make your purpose effective?

Mr. BROWN. This is the best clause that we were able to devise on this, and if we feel that any other country is using a state-trading mechanism to evade a concession which they have given us, we would make a protest to them based upon this article.

Senator MILLIKIN. Here at this point you are touching upon the subject of the relations between governments, as contrasted to the relationship between private traders within governments.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. It is a large subject, is it not?

Mr. BROWN. Governments are in business now to a very considerable extent.

Senator MILLIKIN. That is exactly right. And I say it is a very large subject, is it not?

Mr. BROWN. Enormous.

Senator MILLIKIN. It involves very tender relations.

Mr. BROWN. That is why we like to see business conducted as much as possible through private trade channels.

Senator MILLIKIN. You do not do it if you encourage the State monopolies.

Mr. BROWN. This is not intended to encourage them, sir; this is intended to govern their activities by as much as possible the same rules as govern the operation of private enterprises.

Senator MILLIKIN. I suggest that when we get through examining this whole business it will be very clear that you have not struck a single effective blow at the State monopolies; that on the contrary you have encouraged them by giving them limited approval.

Mr. BROWN. On that I could only say that I think your point is quite well taken, that the provisions with respect to the operation of State trading monopolies are not as effective as we would like to see them be. And the reason for that, of course, is in the nature of the case. It is extremely difficult to get a provision which will effectively deal with them. But they are there, and we can't just ignore their existence.

Senator MILLIKIN. Now I come back to my point that I was working on.

Here you are dealing in relation to governments, are you not? You are dealing as between state monopoly governments, which are exclusively state monopoly or partially state monopoly. Is that right?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Do you not think that that is properly a subject for treaty-making powers of this country?

Mr. BROWN. No, sir. This is an agreement dealing with tariff rates, primarily, and tariff rates apply to different products, some of which may be traded in my state trading enterprises.

Senator MILLIKIN. The Congress gives you the authority to make reciprocal trade agreements. You wind up prescribing the duties of state monopoly countries in their relations to other countries.

Mr. BROWN. We wind up having secured from countries which use the state trading system a commitment that they will not so use it as to frustrate a concession which they have given us.

Senator MILLIKIN. A violation by a state monopoly country of the provisions of this agreement might have very serious repercussions, might it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Because it would bring into conflict nations as distinguished from bringing into conflict two private traders.

Mr. BROWN. No, sir; the analogy is not correct. Because it is also a government which imposes a tariff; and if the government violates its commitment with respect to a tariff, it is the same thing in terms of whom you are talking to and whom you are dealing with, as to whether they do it by changing a tariff rate or by putting on an embargo or by doing it through a state trading operation. In all cases, you would be dealing with the Government.

Senator MILLIKIN. But the prosecution of the claim on behalf of a private enterpriser would take an entirely different aspect in content and in method of presentation and in time factors, than when you are resolving a controversy between governments.

Mr. BROWN. But when we approach another government with respect to a violation of a trade agreement, we normally do it on behalf of a private firm of some kind. And what we are dealing with is the action of the Government in violating that agreement.

Senator MILLIKIN. Oh, you could easily have two state monopoly countries, which might have signed this agreement, get into a quarrel with each other.

Mr. BROWN. That would be true, sir.

Senator MILLIKIN. Yes, sir. I am just making this point: That perhaps you have allowed your teeth to get too long, that perhaps you are dealing with a subject of such delicacy that it ought to be covered by treaty, from which it would follow that perhaps you have no authority under the simple reciprocal trade act, which we read this morning, which mentions nothing of this kind, and which I suggest does not contemplate it.

I suggest that you have allowed your teeth to get too long, and that you are interfering in something which should properly come under our treaty-making power. You do not agree?

Mr. BROWN. No, sir.

Senator MILLIKIN. We have had many occasions to observe the proliferation of your activities under the simple little grant of power given you in that original reciprocal trade agreements act.

Now, as a part of that paragraph, it says [reading]:

Provided, That the Contracting Parties (i. e., the contracting parties acting jointly as provided for in Article XXV)—

Article XXV in effect merely states that the parties to this agreement are the contracting parties, and that they are acting jointly. Is that not the gist of it?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Yes. [Continues reading:]

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.

Now will you trace out for us, if the language does not make it clear, what is the function of the contracting parties so far as a change in the par value of the currencies is concerned?

Mr. BROWN. None whatever. Their function is to see that, provided there has been a change in the par value which has resulted in compensatory adjustments, because of the fact that it has changed the value of the specific rate, those adjustments do not get out of line and they are not unreasonable.

Senator MILLIKIN. You say "not reasonable."

Mr. BROWN. Not above the par. Something that has to do with the effects, after the par is changed; yes, sir.

Senator MILLIKIN. I will restate my question. The contracting parties have what authority over the effects of a change of par and the adjustments made as a result of the change of par?

Mr. BROWN. They have the power to see that the party who changes the rate and claims a right to make adjustments in his schedules as a result, does not abuse that right.

Senator MILLIKIN. In other words, everyone has the right, here, within this margin, to make compensating adjustments if an adjustment is made anywhere along the line. Right?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And the contracting parties, acting jointly, determine whether those adjustments are in line. Is that right?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now, that touches upon the valuation of foreign money, does it not?

Mr. BROWN. Well, I am sorry, Senator. I have said all that I really am able to say on that point. I would say that that touches upon what happens in the schedules of this agreement if somebody changes the par value of their currency to a different base from the one in which those schedules were originally calculated.

Senator MILLIKIN. All right. We start out with a par value of X. All of the countries have their own relationship to the par value of X. And every concession in the whole multilateral agreement has its relationships to the par value of X.

Now, then, some country has changed its par value. That gives other countries the right to change their par value. Is that correct?

Mr. BROWN. To change their rates.

Senator MILLIKIN. To change their rates. It comes to the same thing, does it not?

Mr. BROWN. Their scheduled rates.

Senator MILLIKIN. If the par value of the French franc is 10 cents on the dollar, and, whether by change of rate or however you want to describe it, it becomes 5 cents on the dollar, you have made a change in the par value, have you not?

Mr. BROWN. What I meant to say is that it gives them the power to change the rates in the schedules.

Senator MILLIKIN. And the rates in the schedules are changed in relation to a par value, are they not?

Mr. BROWN. That is right.

Senator MILLIKIN. Let us see what it says. [Reading:]

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.

That is a pretty large order for the contracting parties, is it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. It certainly is. And the contracting parties consist of how many nations?

Mr. BROWN. Twenty-three.

Senator MILLIKIN. This adjustment which might be in conflict might be an adjustment very important to the United States, where a majority of those 23 could reach a decision adverse to us.

Mr. BROWN. It would be most likely to be an adjustment reached by somebody else which would be detrimental to the United States.

Senator MILLIKIN. It would be most likely to be an adjustment reached by somebody else, but it could be an adjustment by the United States.

Mr. BROWN. It could be; yes, sir.

Senator MILLIKIN. And if so, a majority of those 23 countries, a majority perhaps consisting of the least important, economically speaking, of all of these countries, could rule against the United States, which has about 50 percent of the economic power of the world. Is that right?

Mr. BROWN. That is correct.

Senator MILLIKIN. That is correct. And you think that in making a contract of that kind you are within the scope of the Reciprocal Trade Agreements Act?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. There is no doubt in your mind about that at all?

Mr. BROWN. We could withdraw from the agreement if we didn't like the result.

Senator MILLIKIN. Oh, yes. I said this morning, I think while you were out, that we would hear about that before the day was over.

Now, let us see what that means.

We set out here to set up an agreement which presumably is to our benefit and to the benefit of the world. Is that right?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. We are the most important, most powerful, economic factor in the agreement. Is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. This group of a majority of the contracting powers, which might consist of the least important, economically speaking, of the nations which are parties to it, can put us in the position where we have to withdraw, or put us in the position of either withdrawing, if we wish to protect ourselves in a situation of this kind,

thus becoming responsible for breaking up this arrangement, or of taking it when we don't like it.

Mr. BROWN. They could, conceivably.

Senator MILLIKIN. Yes. And that goes for any other country that is in here. Is that not right?

Mr. BROWN. But the very statement that this country is the most powerful economic influence in the world also carries with it the fact that the voice of the United States is also the most powerful voice.

Senator MILLIKIN. And also that the honey pot of the United States is a powerful honey pot, and every "have not" nation in this world will be trying to get into it, and is getting into it, and has been getting into it very successfully.

That does not strike you as being outside of the authority of this Reciprocal Trade Agreements Act?

Mr. BROWN. That does not strike me as being outside the authority of the President, no, sir.

Senator MILLIKIN. And that has the complete approval, so far as you know, of the State Department.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Well, I think the Congress will be interested in that.

Do you wish to make any further observations on that?

Mr. BROWN. Only to say, Senator, that most of the material in this article has appeared in one form or another in most of our trade agreements, including a portion of the section about the State trading.

Senator MILLIKIN. The trading agreements that were made prior to the international fund, for, obviously, those parts that have to do with the international fund, could not have been anticipated.

Mr. BROWN. No, sir, 6 (a) is a new provision.

Senator MILLIKIN. And when you speak of those agreements, you are speaking of agreements which you have made allegedly pursuant to this Reciprocal Trade Agreement Act.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now, we come to GATT, part II, article III, called "National Treatment on Internal Taxation and Regulation." [Reading:]

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

2. The products of the territory of any contracting party imported into the territory of any other contracting party shall not be subject, directly or indirectly to internal taxes or other internal charges of any kind in excess of those applied directly or indirectly to like domestic products. Moreover, no contracting party shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.

3. With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2, but which is specifically authorized under a trade agreement in force on April 10, 1947, in which the import duty on the taxed product is bound against increase, the contracting party imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as it can obtain release from the obligations of such trade agreement in order to permit the increase of such duty to the extent necessary to compensation for the elimination of the protective element of the tax.

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

5. No contracting party shall establish or maintain any internal quantitative regulation relating to the mixture, processing, or use of products in specified amounts or proportions which requires directly or indirectly that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no contracting party shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.

6. The provisions of paragraph 5 shall not apply to any internal quantitative regulation in force in the territory of any contracting party on July 1, 1939, April 10, 1947, or March 24, 1948, at the option of that contracting party, provided that any such regulation which is contrary to the provisions of paragraph 5 shall not be modified to the detriment of imports, and shall be treated as a customs duty for the purpose of negotiation.

7. No internal quantitative regulation relating to the mixture, processing, or use of products in specified amounts or proportions shall be applied in such manner as to allocate any such amount or proportion among external sources of supply.

8. (a) The provisions of this article shall not apply to laws, regulations, or requirements governing the procurement by governmental agencies products purchased for governmental purposes, not with a view to commercial resale or with a view to use in the production of goods for commercial sale.

(b) The provisions of this article shall not prevent the payment of subsidies exclusively to domestic producers, including payments to domestic producers derived from the proceeds of internal taxes or charges applied consistently with the provisions of this article and subsidies effected through governmental purchases of domestic products.

9. The contracting parties recognize that internal maximum price control measures, even though conforming to the other provisions of this article can have effects prejudicial to the interests of contracting parties supplying imported products. Accordingly, contracting parties applying such measures shall take account of the interests of exporting contracting parties with a view to avoiding to the fullest practicable extent such prejudicial effects.

10. The provisions of this article shall not prevent any contracting party from establishing or maintaining the internal quantitative regulations relating to exposed cinematograph films and meeting the requirements of Article IV.

Would you mind telling us what that is all about?

Before you come to that, let me ask you: That is almost in haec verba with article 13 of the proposed International Trade Organization, is it not?

Mr. BROWN. Yes, sir. And it covers a subject matter which has always appeared in our trade agreements.

Senator MILLIKIN. And, with rare exceptions, is in identical words?

Mr. BROWN. Yes, it is substantially the same as article 18 of the charter, and, as I say, it is a traditional and customary article in our trade agreements.

Senator MILLIKIN. And the words are substantially the same.

Mr. BROWN. Many of them are absolutely boilerplate. Yes, sir.

Senator MILLIKIN. Which means that they are the same in article 8 of ITO as they are in article 3 of part II of GATT? Correct?

Mr. BROWN. And also in some of our previous agreements.

Senator MILLIKIN. All right.

Now, will you explain the meaning of that?

Mr. BROWN. This is an article which is designed to see that countries do not nullify the tariff concessions that they give to us by the use of internal taxes which are discriminatory against imports.

Because if you receive a tariff concession on a product, and then the other country is free to impose a tax on that product, which applies only to the imported product and not to the domestic product, you could have a nullification of the tariff concession. That is the purpose of this first part of the article, these first three paragraphs.

Paragraph 4 carries out the same thought, which is that the nation that grants the tariff concession should not be free to nullify the effects of that concession by internal regulations which have the effect of discriminating against the imported product. And therefore it requires, as has been customary in our trade agreements and in our commercial treaties, that the other countries will give national treatment to our products with respect to internal regulations.

Paragraph 5 is a special paragraph which deals with a new form, a relatively new form, of restrictive device which has been growing up, and that is the use of mixing regulations, which require that a certain proportion of a product must come from domestic sources.

Paragraph 6 is designed to except from that paragraph certain internal mixing regulations which were in force at the date when the agreement went into effect; there are three base dates, actually. The main purpose of that actually from our point of view was to be sure that it permitted the continuance of the mixing regulations which we have in force for synthetic rubber. It is the only regulation of the kind that we have, and this permits its retention.

Paragraph 7 simply says that, if you have a mixing regulation, you don't allocate the amounts imported among the possible sources of supply. That is, you allow supplies in foreign countries to compete freely for the import.

Paragraph 8 exempts our stock pile, our security stock pile, from the requirements of the article, and paragraph 9 simply says that your internal price control measures may have effects on imports, and if they do that ought to be taken into account by the country imposing them.

Finally, the last of those recognizes the fact that article IV, I think it is, of the agreement permits the screen quota; and I think you are familiar with the reasons for that.

Senator MILLIKIN. Now let us get to the mixing requirements. These mixing statutes that we had on the dates mentioned here are exempt, and may continue?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. By exception, we can make purchases for our stock pile?

Mr. BROWN. Purchases for our stock pile are exempted completely from this agreement.

Senator MILLIKIN. What about the future mixing agreements, or future mixing laws, rather?

Mr. BROWN. We may not under this agreement require a larger proportion of synthetic rubber than we were authorized to require on the base date. That requirement was almost double the requirement our statute provides for.

Senator MILLIKIN. Has it crossed your mind that there you are interfering, maybe seriously, with what might be regarded as a prerogative of Congress?

Mr. BROWN. No, sir. Because this specifically permits a great deal more than the Congress has required.

Senator MILLIKIN. Oh, the Congress has no limit on its requirements, under its own power.

Mr. BROWN. Of course, not. Congress could change it.

Senator MILLIKIN. This, if valid, puts a limit to the power of Congress to legislate on this subject, does it not?

Mr. BROWN. Yes, sir. So does the fixing of a tariff rate.

Senator MILLIKIN. All right. So does any other thing which is validly established.

Is there any authority in the Reciprocal Trade Agreements Act for these restrictions on the power of Congress to legislate regarding mixing?

Mr. BROWN. We feel, sir, that this requirement, this provision, is within the authority of the President.

Senator MILLIKIN. Yes. But can you put your finger on the provision in the Reciprocal Trade Agreements Act that gives you authority to limit the power of Congress to legislate on mixing in the future?

Mr. BROWN: I couldn't.

Senator MILLIKIN. You have said that it is a rather new and novel matter that is being attended to here.

Mr. BROWN. It is a device which has been used against our exports for a good many years, but not over a very wide area of trade; although some of the articles affected have been very important.

Senator MILLIKIN. We have used it against the exports of others, rubber, for example?

Mr. BROWN. Yes, sir; that is the only one.

Senator MILLIKIN. It is a subject of great interest to all countries, I suppose.

Mr. BROWN. And our regulation is one for the national security and not for trade purposes.

Senator MILLIKIN. Supposing in our development of a synthetic fuel oil program, for example, the Congress should in the interests of national defense, prescribe a certain amount of mixing of synthetic fuels with the naturally produced petroleum products. That might have a very direct impact upon the importations of oils into this country. Would we be barred from creating a mixing statute of that kind?

Mr. BROWN. I am not sure about that, Senator. I think it might be justified under the defense exception in the end of the agreement. It would depend upon the form of the statute.

Senator MILLIKIN. I am thinking in terms of substance. By that same argument, we can increase our prohibition against rubber to meet the mixing situation in this country.

Mr. BROWN. No; I don't think we could, Senator, because the rubber requirement makes the requirement of a certain proportion of synthetic rubber for all uses, that is, general commercial uses as well as any military uses.

Senator MILLIKIN. For that reason, under your theory, you could not put a further limitation on the importation of natural rubber. I suggest to you that under the case which I put to you, the law might run exactly the same way.

Mr. BROWN. That is conceivable.

Senator MILLIKIN. And probably would run that way.

Mr. BROWN. That is conceivable.

Senator MILLIKIN. And it is not entirely a theory, because the Federal Government is spending a lot of money and is making quite a little progress in bringing those synthetic fuels into the commercial realm. Your interpretation is that we could not pass such a law?

Mr. BROWN. I would have to see the law, but I would think it is very likely that we could not. But, of course, there are other ways that you can take care of a new industry of that kind, by subsidy or otherwise.

Senator MILLIKIN. But so far as a mixing statute is concerned, your judgment is that we could not.

Mr. BROWN. Probably not, sir.

Senator MILLIKIN. Probably not.

Do you not think tnat that is a rather serious interference with what otherwise would be the power of Congress, assuming the validity of this?

Mr. BROWN. No, sir. The purpose of this agreement, like all our trade agreements, is to reduce the barriers to trade. We have authority under the Trade Agreements Act to make trade agreements for the purpose of expanding the foreign trade of the United States. And under that authority we can make foreign trade agreements, and we can specifically reduce tariff rates to a certain extent.

Now, the things that block our foreign trade, and which impede the achievement of the purpose of expanding the markets for our products, are not only tariff rates, but they are mixing regulations, and they are quotas, and they are discriminatory internal taxes, and they are other forms of discrimination against our exports. Therefore, in order to accomplish the very purpose which Congress has asked the President to accomplish in the Trade Agreements Act, of expanding the markets for American products, he must be able to negotiate with respect to those items as well as with respect to specific tariff rates.

Senator MILLIKIN. I ask you again: Have you not put a prohibition on Congress, assuming that it is a valid prohibition, which might be a serious interference with its legislative powers?

Mr. BROWN. Not more than any other provisions of the trade agreements, as to which we have authorization.

Senator MILLIKIN. I think you gave us a measuring stick a while ago that gave us, as I see it, a glimpse of your philosophy. Is it your contention that you can take any economic situation, any place, and say that this puts a hindrance upon trade, or puts up a hurdle to trade, export or import, and that if you find that to be a fact you can make an agreement of any nature that in our opinion will remove or tend to remove that hurdle?

Mr. BROWN. No, sir.

Senator MILLIKIN. Does not your claim come to that?

Mr. BROWN. I don't think it does.

Senator MILLIKIN. Do not your own observations indicate that your claim comes to that?

Mr. BROWN. No, sir; I believe I prefer to stand on my observations.

Senator MILLIKIN. Here you have a novel provision, under your own description. You cannot find any specific authorization for it in your basic grant of authority. Quite obviously it runs right straight across the future power of Congress in what might develop to be a very important field of legislation. And yet, you plunge right into it, and

you make an agreement, and you claim you do not have to bring the agreement back to Congress.

Or is this one of the articles that you are doubtful about?

Mr. BROWN. No, sir.

Senator MILLIKIN. As to this one you are entirely certain.

Now, of course, this deals with other types of internal law, having to do with taxation and excises, and your contention is that there you are simply incorporating a boilerplate which has been introduced into many other reciprocal trade agreements.

Mr. BROWN. In most cases, yes, sir.

Senator MILLIKIN. And for which there is an abundance of precedent, probably antedating this grant of authority to you from the Congress, from which you could argue that the Congress must have contemplated that taking action of that kind would be within the grant of authority. Correct?

Mr. BROWN. That was the argument that Senator Taft kindly suggested for us to use, this morning.

Senator MILLIKIN. Well, that is not bad argument. It is better than some I have heard, without disrespect to you.

Now, you have a paragraph there, paragraph 9, which says [reading]:

> The contracting parties recognize that internal maximum price-control measures, even though conforming to the other provisions of this article, can have effects prejudicial to the interests of contracting parties supplying imported products. Accordingly, contracting parties applying such measures shall take account of the interests of exporting contracting parties, with a view to avoiding to the fullest practicable extent such prejudicial effects.

and then, continuing:

> The provisions of this article shall not prevent any contracting party from establishing or maintaining the internal quantitative regulations relating to exposed cinematograph films and meeting the requirements of article IV.

What do you mean by an internal maximum price control measure?

Mr. BROWN. I assume that what is meant is something like the price control that existed under OPA, that exists in Britain today, and other countries. Just the regular price control.

Senator MILLIKIN. So that if the Congress should act on the request of the President to reimpose that kind of a system, it would be our obligation to take into account [reading]:

> the interests of the exporting contracting parties, with a view to avoiding to the fullest practicable extent such prejudicial effects.

Is that right?

Mr. BROWN. Yes, sir.

If it were possible to apply the price control system in one way, in which it did have a prejudicial effect, on, let us say, Brazilian coffee, which we don't produce, and if it were possible to apply it in another way, in which it didn't have a prejudicial effect, then, under this article, I think that we would follow the latter course.

Senator MILLIKIN. So now we have the amazing situation——

Mr. BROWN. There is no commitment, no formal commitment.

Senator MILLIKIN. There is an obligation. It states in very definite language that there is an obligation.

So now we have the amazing situation where Congress has imposed maximum price controls, and where it has been requested to impose

them again, and it is, I assume, clearly within the field of its power; but a group of State Department employees have sat around a table over in Geneva, and have made an agreement with others that tells the Congress that if it wishes to do that again, the Congress should sit around the table and run a survey as to what the effect of that might be on imports into this country. Is that right?

Mr. BROWN. It would expect us, in the administration of any such system, to consider the effect that it might have on other countries.

Senator MILLIKIN. I mean, the Congress is obligated, if this thing has the effect of law, if it is binding upon us.

The Congress, if it should reimpose price controls, if it keeps its obligation, and I assume that all of this is in good faith, must sit around and consider the effect on every item of imports into this country. And that comes about, as I suggested to you, by a group of nonelected persons holding office in the State Department, sitting around a table in Geneva and deciding that the Congress shall be hobbled in that way.

Does that not strike you as fantastic?

Mr. BROWN. I have thought of this provision more in terms of the administration of a system by executive action.

Senator MILLIKIN. Well, show me where that appears.

Mr. BROWN. It does not say so, sir.

Senator MILLIKIN. It does not say so. The language is completely broad. And under the language, an obligation has been imposed upon Congress, in a field where we will assume it has authority to act. That obligation has been imposed in the precise way in which I have mentioned.

Now, does that not strike you as fantastic?

Mr. BROWN. I should think Congress would want to give consideration to the effect of its actions on other nations as well as on this country.

Senator MILLIKIN. Maybe so, Mr. Brown. Maybe it should and it would. The question is: Has this group of men sitting around the table, presumably representing the United States at Geneva, the right to make an agreement that tells the Congress what it shall do?

The CHAIRMAN. May I ask this question: Do you construe that section to apply to the passage of a law by the Congress, when apparently it is aimed at administration of regulations, and when it is only to do the best it can, not to inflict unnecessary hurt or harm?

I do not think that could be addressed to the Congress.

Senator MILLIKIN. I hope the Senator's interpretation is correct. I do not want to be tedious about it. But what it says is [reading]:

> The contracting parties—

which includes the United States—

> recognize that internal maximum price control measures even though conforming to the other provisions of this article, can have effects prejudicial to the interests of contracting parties supplying imported products. Accordingly, contracting parties—

that is the United States—

> applying such measures—

that is, applying internal maximum price control measures. And that certainly is within the field of Congress.

The CHAIRMAN. That relates to the administration of those measures, very clearly.

Senator MILLIKIN. It certainly does. And it certainly touches the powers of Congress. [Continues reading:]

shall take account of the interests of exporting contracting parties, with a view to avoiding to the fullest practicable extent such prejudicial effects.

I am in entire agreement that we ought to, and that we should.

The CHAIRMAN. It is very clear to my mind that that applies to the administration of whatever steps we take. And even then, we are to do just the best we can. Presumably we would act in good faith, in trying to live up to it.

Senator MILLIKIN. But we pass a law, Senator, establishing internal maximum price-control measures. And let us say that we pass it, as we have passed such laws, without full consideration of all of the international repercussions. Then we have brought out executive department into conflict with the intent of this agreement.

Now, as to this cinematograph-film business, I read something in some explanation to the effect that these exceptions are carved out in that business in several different places, because of the peculiar nature of the business. In England and in France and in orther countries they are trying to develop their film business; and as I understand it they have worked up some kind of an arrangement whereby imported films shall not be shown more than, we will say, a certain number of hours during an exhibition day, or something of that kind.

Can you give us a little enlightenment on the philosophy of that and the reason for distinguishing that from other import restrictions?

Mr. BROWN. Yes, sir.

A movie film is a different kind of animal from most goods that move in international trade. Because if you are importing an automobile, for example, you can fix a tariff on a car. You know what the valuation of a car is. And you can decide what your tariff should be. The tariff will have the effect that you desire it to have.

On the other hand, the value of a movie film does not lie in the film itself. That is, you have a film of so many thousand feet which comes in at a tariff of so many pence per foot. It isn't the value of the film that counts. It is its earning power after it has gotten into the country.

Therefore, the important thing about the film is how long it will play, and how large crowds it will draw. And recognizing that fact, and not knowing of any other articles having that same characteristic, it was agreed that there would be a special article in which you could have, for movie films, this screen quota device, as being the form of protection, and a negotiable form of protection, just like the rate of duty on an ordinary article. That was the reason for that.

Senator MILLIKIN. Am I correct in my understanding that that is in principle agreeable to the film industry, our film industry?

Mr. BROWN. Yes, sir. They were, I think, extremely pleased with this article. We were in close touch with them.

Senator MILLIKIN. But it is a form of quantitative restriction.

Mr. BROWN. It is a quantitative restriction. But in this particular kind of a product there is not any way in which you can really get the kind of effect you want to get with the tariff.

Senator MILLIKIN. Would you put it this way: that that is the only way in which you can impose a quantitative restriction on that kind of an item?

Mr. BROWN. Yes; a limitation on the number of films would not make much sense.

The CHAIRMAN. Would you mind saying who urged this, or who suggested it?

Mr. BROWN. This is, as I understand it from everything they have ever said to us, very satisfactory to the motion-picture industry.

The CHAIRMAN. Our producers?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Mr. Brown, will you be good enough to explain the interpretative paragraphs which follow this article?

By the way, explain to us how these interpretative paragraphs have arisen—what brought them into being.

Mr. BROWN. Well, I assume that somebody at Geneva, at the Geneva meeting, some member, wished to be quite sure that it was clear what a particular thing meant; and they were not quite sure that it was from the language of the document.

Senator MILLIKIN. These interpretative provisions are official?

Mr. BROWN. Oh, yes.

Senator MILLIKIN. They have been approved at some meeting of the contracting parties?

Mr. BROWN. Yes, sir. Most of them, at the time of the original agreement.

Senator MILLIKIN. Most of them at the time of the original agreement.

Now, will you point out any of those interpretations which have any effect on what we have been discussing.

Mr. BROWN. May I have just a minute to look at this?

Senator MILLIKIN. Surely.

Mr. BROWN. I think the first one is of particular interest to us, Senator. The purpose of that is to make it clear that we could require that imported articles made of rubber conform to our mixing regulations if we should determine that that was necessary. That was the understanding.

Because, take tires, for example. The consuming public still has a feeling that a natural-rubber tire is better than a synthetic-rubber one, although the experts don't all feel that way. So there is a commercial advantage. And it might be that someone might start importing an all-natural-rubber tire. And our domestic manufacturers would be under wraps, under the mixing regulations.

Under this note, it was agreed that, if that situation should develop, we could require that the imported product have the same proportions.

Senator MILLIKIN. Then this is complementary to the permitted mixing restrictions as far as rubber is concerned.

Mr. BROWN. That is correct.

Senator MILLIKIN. Did it contemplate anything else?

Mr. BROWN. That is the only thing that I know of that that had in mind, sir, that particular one.

The next one recognizes the difficulties that are sometimes inherent in a Federal system, where a national government takes a commitment but cannot always assure that it will be carried out by the local governments, which are part of the Federal system.

In Australia, Canada, Colombia, as well as in this country, we have a Federal system. And this was just to make sure that Article VIII–3 was not interpreted to be more of a commitment on the part of the national government to insure compliance by the constituent governments than lay within their power.

Senator MILLIKIN. Well, with reference to that, what can we do about it? Supposing any of our States, within their proper constitutional authority, put up a tax that is inconsistent with the provisions of this article which we have been discussing? What is our obligation?

Mr. BROWN. I do not think we could do anything about it, Senator.

Senator MILLIKIN. Have we promised, or held out an implied promise, to do something that we could do anything about?

Mr. BROWN. I don't think so.

Senator MILLIKIN. Let us read that.

Mr. BROWN. Let me just check.

The only commitment that we have taken, on that point, Senator, is in the last paragraph of article XXIV, page 82.

Senator MILLIKIN. Article XXIV of GATT?

Mr. BROWN. Article XXIV of the general agreement; yes. Because it was recognized that the Federal Government did not have the power to compel action by the local government. It only had powers of persuasion.

Senator MILLIKIN. Well, can we accept it as beyond "if's," "but's," "maybe's" that it is not intended that the Federal Government shall attempt to conform State laws by any method whatsoever, to the provisions of this agreement?

Mr. BROWN. That may be taken categorically, but that does not mean that the Federal Government might not get in touch with a governor and suggest to him that he consider that a course of action which the State is following has certain effects. But that would be simply a matter of persuasion and consultation.

Senator MILLIKIN. Yes.

I notice the paragraph says [reading]:

> The application of paragraph 1 to internal taxes imposed by local governments and authorities within the territory of the contracting party is subject to the provisions of the final paragraph, article XXIV.

That is the one you just referred to:

> The term "reasonable measures" in the last-mentioned paragraph would not require, for example, the repeal of existing national legislation authorizing local governments to impose internal taxes which, although technically inconsistent with the letter of article III are not in fact inconsistent with its spirit, if such repeal would result in a serious financial hardship for the local governments or authorities concerned. With regard to taxation by the local governments or authorities which is inconsistent with both the letter and spirit of article III the term "reasonable measures" would permit a contracting party to eliminate the inconsistent taxation gradually over a transition period if abrupt action would create serious administrative and financial difficulties.

I remain somewhat mystified about that.

Mr. BROWN. May I give you an illustration, sir?

Senator MILLIKIN. Will you put the illustration against what I am going to suggest to you?

We are talking here about existing national legislation authorizing local governments to impose internal taxes. We have no national legislation, so far as I know, that authorizes local governments to im-

pose taxes. Their taxing powers arise out of their own constitutional authority. Is that not correct?

So I do not quite see where that fits any of our picture.

Mr. BROWN. It does not fit our picture.

Senator MILLIKIN. It says [reading]:

> Although technically inconsistent with the letter of article III, are not in fact inconsistent with its spirit if such repeal would result in a serious financial hardship for the local governments or authorities concerned.

So far as our Government is concerned, whether it did or did not result in a serious financial hardship, that would not have any weight, would it?

Mr. BROWN. This note does not apply to the United States, sir, because, as you state, the States derive their taxing powers from their own constitutions and not from any Federal law.

Senator MILLIKIN. Well, it is understood that this does not apply to the United States?

Mr. BROWN. Yes, sir; because it applies only to a national law, and we don't have any.

Senator MILLIKIN. And in the discussions that took place in connection with the formation of this interpretation, was that made entirely clear? Are there notes of it?

Mr. BROWN. The origin of it is entirely clear. It came up from a country that did have national legislation, which authorized its local governments to impose internal taxes.

The CHAIRMAN. That is true in Cuba, is it not?

Mr. BROWN. I am not sure whether that is true or not, sir, in Cuba.

The CHAIRMAN. It is in some respects.

Senator MILLIKIN. Would the provisions of this article or any other part of GATT impose upon the Federal Government any duties to do anything as to local State laws or movements, which are intended to promote State products, such as "Buy Georgia Peaches," "Buy Colorado Cantaloupes"; State advertising campaigns out of public funds to promote those local buying movements?

Mr. BROWN. No, sir.

Senator MILLIKIN. Is there anything in this agreement any place that imposes any obligation on the Federal Government to stop anything of that sort?

Mr. BROWN. I don't think so, sir.

Senator MILLIKIN. Is there any question about it?

Mr. BROWN. No; I don't know of anything. It was not intended.

Senator MILLIKIN. Now, let me ask you again: Is there anything in this article III which is sufficiently questionable to the State Department to induce it to refer the matter to the Congress for approval?

Mr. BROWN. Yes, sir. This would require certain changes in our laws.

Senator MILLIKIN. Will you explain that?

Mr. BROWN. I can give you an example.

For example, the coconut-oil processing tax is inconsistent with this provision, and under this provision we would have the obligation, if it was fully accepted, to repeal that tax. We have, however, reserved the right, if we should do that, to impose an equivalent tariff, a tariff in the same amount as the tax which would be repealed.

In other words, it would simply involve a change in the form from a tax to a tariff.

The reason for that is that the theory on which this article and many articles have been in our trade agreements has been that we wanted to get the charges which were in effect tariffs, into the tariff acts of the different countries, so that they would be clearly known and recognized. We do that in almost all cases; not all, but most cases, ourselves.

Now, there are two or three cases of that kind in which we would have to ask the Congress to change it from a tax into a tariff.

Senator MILLIKIN. This arises out of this article III?

Mr. BROWN. That is correct, Senator.

Senator MILLIKIN. Now, is there anything in article III that you feel would require legislation, or legislative approval?

Mr. BROWN. Yes. In the case of oleomargarine there is a tax on the imported product which does not apply on the domestic product, and which would need to be repealed if this article were fully put into effect.

Senator MILLIKIN. I am sorry. I missed a part of what you said. I hate to ask you to repeat, but would you mind repeating everything that you said?

Mr. BROWN. I said that there is a tax on the imported oleomargarine which is not imposed on the domestic product. And this article, to be fully effective, would require a repeal of that tax, to the extent that it is discriminatory.

Senator MILLIKIN. Now, if we were to repeal our domestic tax on oleomargarine, then what about the importers' tax. Would that put any obligation on us to repeal the import tax?

Mr. BROWN. Yes, sir. Our obligation would be to have the internal tax the same for the domestic and the imported product.

Senator MILLIKIN. And if we do not repeal the import tax, and if we keep the domestic tax, then what is our obligation?

Mr. BROWN. Our obligation would be to make them the same, sir.

Senator MILLIKIN. So whether we do or not, we have a legislating job do do.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What else have you there that indicates questions on article III?

Mr. BROWN. Those are the major points that would be involved. There may be some others. I would like to check that and let you have it. I would prefer not to point out any more here, because I am not quite sure.

Senator MILLIKIN. Will you give me the minor points in the morning?

Mr. BROWN. I will try and do that, sir. They may be important. I don't know.

The CHAIRMAN. I wish to insert into the record a letter received from Mr. William S. Swingle, executive vice president of the National Foreign Trade Council, Inc., furnishing additional data in connection with his appearance before the committee on February 18, 1949, and also a statement submitted by Mr. Harry A. Moss, Jr., giving the views of the National Association of Leather Glove Manufacturers, Inc., on the bill under discussion. In addition, we have a letter from the California Fish Canners Association, Inc., and statements on behalf of the Packers and Producers of South African Frozen Rock Lobster Tails, the United Farmers of America, Inc., the Association

of Food Distributors, Inc., New York, N. Y., and the Sun Harbor Packing Co. and the American Tunaboat Association, both of San Diego, Calif.

(The matter referred to is as follows:)

NATIONAL FOREIGN TRADE COUNCIL, INC.,
New York 6, N. Y., February 23, 1949.

Hon. WALTER F. GEORGE,
Chairman, Committee on Finance,
United States Senate, Washington, D. C.

MY DEAR SENATOR GEORGE: At the hearings on H. R. 1211 on Friday, February 18, Senator Eugene D. Millikin requested me to advise the committee as to why I felt the President should not be required to state to Congress his reasons for approving a trade agreement rate below the so-called peril point established under existing legislation.

I believe that in certain instances, in order to stimulate greater imports of a particular commodity for purposes of national security, to secure promptness of delivery, or because of other factors involved in production in the broad national interest, a rate might have to be set below the peril point rate previously set by the Tariff Commission. In announcing this and giving his explanations to Congress in a document which inevitably would be made public, the President would have to disclose the reasons for the action taken and such disclosures might well be contrary to the national interest.

Therefore, I believe that the requirement that he be obliged in every instance to state the reasons should not be included in the law.

Respectfully yours,

WILLIAM S. SWINGLE,
Executive Vice President.

STATEMENT OF HARRY A. MOSS, JR., RESEARCH DIRECTOR OF NATIONAL ASSOCIATION OF LEATHER GLOVE MANUFACTURERS, INC., AND ASSOCIATION OF KNITTED GLOVE AND MITTEN MANUFACTURERS, A DIVISION OF THE NATIONAL ASSOCIATION OF LEATHER GLOVE MANUFACTURERS, INC., CONCERNING A BILL (H. R. 1211) TO EXTEND THE RECIPROCAL TRADE AGREEMENTS ACT TO JUNE 12, 1951

NATIONAL ASSOCIATION OF LEATHER GLOVE MANUFACTURERS, INC.,
Gloversville, N. Y., February 24, 1949.

Honorable CHAIRMAN, SENATE FINANCE COMMITTEE,
United States Senate, Washington, D. C.

DEAR SIR: This statement is in behalf of the National Association of Leather Glove Manufacturers, Inc., a trade association representing manufacturers in many States of the Union, who account for better than 90 percent of the production of leather gloves in the entire country; and on behalf of the Association of Knitted Glove and Mitten Manufacturers, whose members account for better than 95 percent of the production in this country of seamed and seamless knit wool gloves and mittens.

As American manufacturers who have no foreign market for their product because of higher wages and factory standards than exist abroad, we are primarily interested in the economic welfare not only of the glove industry but also of every other industry. Above all else, we wish to see this country prosper and are consequently wary of any program such as that embodied in the Reciprocal Trade Agreements Act, conceived and administered as it has been from 1934 to 1948. World events have tended to becloud a true appreciation of what effect a lowering of our protective tariffs can have upon the welfare of American industry.

The set-up of the glove industry is such that we are well acquainted with the complexities of international trade. Our leather glove manufacturers have scoured the world for suitable glove leathers, so that now our leather glove industry uses imported skins for almost its entire production. In normal times it was the custom of the woolen glove manufacturers to obtain at least 50 percent of their raw material from foreign sources.

Our procurement of raw materials, therefore, has brought us in close touch with the economic problems of other countries, with the result that our vision has been broadened to appreciate the world picture today.

We do not at this time, nor have we ever in the past, proposed that tariff or other barriers be set up in this country to exclude the products of other countries from reaching our markets. We do not pretend that we cannot survive in competition with the products of other countries in our home market; and our sworn testimony before many agencies of the Government will evidence our leanings in this regard. We do maintain that a trade-agreements program is necessary. Foreign trade is beneficial to the welfare of our own economy and should be encouraged to fulfill its normal functions in our economic life.

We believe, however, that the efforts made to stimulate it should be kept within the limits of a norm which would prevent us from unfairly promoting the advantages of foreign industry to the detriment of competing American industry.

It is obvious that no broad policies will enable us to do this with fairness; therefore, we must have some means of examining and bringing to light the factors inherent in the daily struggle for existence which takes place on the retail counters of this country between products manufactured in foreign countries at lower rates and the products of American industry, with higher wages and concomitant social benefits reflected in higher costs of operation.

Specifically, we have in mind the American knitted glove. Our prewar experience indicated conclusively that the tariff rates then in effect were no bar at all to imports. This was particularly true with relation to oriental sources, such as Japan and China.

Prior to 1934, the Japanese knitted glove was practically unknown on the American market. Over 97 percent of the imports had come from Czechoslovakia, Germany, and the United Kingdom, our historical sources. Overnight in 1934, Japan accounted for 44 percent of all imports; the next year 95 percent, and the following year 93 percent. The other three prime sources were squeezed down to a little over 1 percent each and never had a chance to revive. These other three countries, with lower wage standards than the American, could not stand the pace; and we certainly were on our way to being lacked out of our own market.

During the 20-year peacetime period, imports accounted for about 35 percent of the American market; but, in the 2 years 1935 and 1936, Japan's imports alone accounted for about 45 percent of the entire American market. A crisis was on, and no one could foretell the fate of the American producer.

Our Government, committed as it was to a grandiose trade policy, had to sit up and take notice; and the Tariff Commission, that branch of the Government uniquely qualified to analyze the effects of import competition, conducted an investigation.

They formally reported to the President on February 12, 1936, that even an increase in duty would not equalize the difference between domestic and foreign (Japanese) costs, and recommended the assessment of the ad valorem rate on the basis of the American selling price. A Presidential proclamation followed.

This relief, however, was only partial. The American selling price applied to only one price category of imports: Up to $1.75 per dozen. Immediately gloves came in valued at $1.76, a penny more per dozen, obviously a case of questionable foreign invoicing, as was revealed in a Customs Court case. That added penny put the gloves in the next higher category, in which gloves were assessed on the foreign valuation.

To further circumvent the Presidential proclamation the Japanese added a meager bit of embroidery to the backs of the gloves and brought them in under a tariff paragraph which had never before applied. It was a technicality, and the importers had again established an unfair advantage over the American producer.

Another Tariff Commission investigation was initiated, covering these two additional categories being utilized by the importers to place their under-priced merchandise in this market; but, before the investigation was completed, the war was on in Europe and this country was preparing for its entry. The matter was left pending.

Meanwhile, an informal consumer boycott of all Japanese goods was in progress. Japanese gloves dropped to 48 percent of our imports; but the drop-off was merely an illusion because the gloves were coming in partly through Japanese-occupied China, according to authentic reports; and the total from the two countries accounted for 98 percent of imports in 1939–41.

The war was then on, and the American industry had been revived through military demand for knitted gloves and mittens, an essential item of clothing, as well as a consumer demand which had then been cut off from foreign sources.

To meet the needs of the armed services, American labor and capital in the industry expanded; and it emerged from the war a larger industry. Money was

invested in research and design, resulting in a finer, more fashionable product; and funds were expended in publicizing a superior knitted glove and mitten to the consumer. This meant an enhanced opportunity for the employment of American labor and a richer source for the collection of taxes to finance the American Government. The improvement of even this small American industry has added to the wealth of American economic life.

It would, therefore, seem a wise gesture to allow it to flourish, especially since the importance of its product in time of war is evidenced by the fact that today it ranks fourteenth on the quartermaster priority list of over 40,000 items needed by the Army.

How this particular industry is going to fare in the light of recent developments is a pointed question in the minds of all those employed in the industry. The shadow of revived Japanese competition, which hovered over the market since the close of the war, is now flesh and blood.

In August 1948, the first thousand dozen Japanese gloves landed here at an average value of $1.23 per dozen. During the next 3 months they increased the total to 24,000 dozen at an average price of $2.70 per dozen. Judging the future by the past, we can readily see the prewar picture being redeveloped. In the years 1934 and 1935, Japanese imports jumped from 35,000 dozen to over half a million dozen, accounting for 45 percent of the total United States market. How long will it take them now to do a more thorough job and capture the entire market?

This same prewar picture was shown elaborately to the Committee for Reciprocity Information a little over 2 years ago. It was pointed out that this industry needed the protection of section 336 of the Tariff Act of 1930, which would allow the Tariff Commission to conduct an investigation when it was obvious that the cost of production from any foreign source was too far out of line with the costs in this country; and that, if anything, our history proves that the tariff rates should be increased rather than decreased. Instead of that, every possible rate was cut at the recent Geneva Conference, and our only recourse today is to the invocation of the nebulous "escape clause," which is admittedly a farce, because the time and red tape involved in evoking it would carry the issue on until after the market had been completely taken over by the importers.

Since the experience of this industry may be multiplied by a number of other industries whose production depends upon handicraft skills, it would seem prudent to reexamine the administration of our trade-agreements program with an eye toward instituting proper machinery for the examination of conditions in individual industries affected by import competition.

We recommend emphatically that the present act be renewed for 1 year only, to June 1950, during which time Congress may frame a more realistic trade program; that the United States Tariff Commission's role be maintained as provided for under Public Law 792 in determining the peril points below which United States tariff cuts might injure domestic producers, as one of the preliminary steps in trade agreement negotiations such as those scheduled for April 11 in Annecy, France.

The role of the Tariff Commission under the present act is the only tangible concession made to the protection of American industry in the entire trade-agreements program, and represents a measure of equitable consideration for the American producer in that it affords the trade agreements organization the judgment of the whole Tariff Commission. Previously, one individual from the Commission served with the trade agreements committee, and they had merely the benefit of his thinking alone. Under the 1948 act, the trade-agreements organization is now afforded better judgment than it had before.

The elevation of the Tariff Commission to this position in the act of 1948 was perhaps the most constructive forward step for the just protection of American industry since the first Trade Agreements Act was passed in 1934. To remove the Commission from its present position at this time would indeed be a poor reflection upon the honest enthusiasm of the proponents of this act, because it puts them in a position of criticizing and wanting to change the 1948 act before that act has been in effect long enough to decide upon its merits.

We appreciate the opportunity to present the views of our industry, and sincerely hope that your committee will find them of value in its deliberations upon the future of the Trade Agreements Extension Act of 1948.

Respectfully submitted.

NATIONAL ASSOCIATION OF LEATHER GLOVE MANUFACTURERS, INC.,
ASSOCIATION OF KNITTED GLOVE AND MITTEN MANUFACTURERS,
HARRY A. MOSS, JR., *Research Director.*

CALIFORNIA FISH CANNERS ASSOCIATION, INC.

Terminal Island, California

WASHINGTON, D. C., *February 21, 1949.*

Hon. WALTER F. GEORGE,
Chairman, Senate Committee on Finance, United States Senate,
Washington, D. C.

DEAR SENATOR GEORGE: It is my understanding the H. R. 1211, the Trade Agreements Extension Act of 1949, passed by the House on February 9, is now under consideration by your committee.

In order to be as helpful to you as possible in your consideration of this legislation, I should like to tell you something about the attitude of the California Fish Canners Association, Inc., toward this particular bill, and toward the Reciprocal Trade Agreements program generally.

In my capacity as chairman of the trade-agreements committee of the California Fish Canners Association, Inc., I have made countless trips to Washington to testify before the Tariff Commission, the committee for reciprocity information, and various committees of Congress. In addition to personal appearances, extensive briefs have been submitted defining the position of the California Fish Canners Association with respect to the trade-agreements program and its effect on the fish-canning industry.

I am not going to attempt to incorporate in this letter all of the material submitted, but I am enclosing a copy of the statement filed with the House Committee on Ways and Means while it was considering H. R. 1211, and a copy of a statement submitted to the Tariff Commission last December. As you will readily see, the organization I represent is very strongly in favor of retaining in the trade-agreements program the requirement that the Tariff Commission conduct an independent investigation to establish what is commonly referred to as the "peril point", below which any modification of a tariff will cause or threaten serious injury to a domestic industry. We see no reason why the retention of this provision in the trade-agreements program will curtail unduly the President's authority to enter into trade agreement negotiations with any nation or group of nations. We believe that this feature of the Trade Agreements Extension Act of 1948 (Public Law 792, 80th Cong.), should be given an opportunity to prove its value. Witnesses before your committee and before the House Committee on Ways and Means, have testified that this provision will cripple the reciprocal-trade agreements program. We fail to see how such a statement can be made since the act is only now being tested for the first time.

The California Fish Canners Association is ready and willing to furnish to your committee any and all information desired, and upon your invitation would be very happy to arrange to have witnesses attend hearings of your committee to explain our position in greater detail.

Yours sincerely,

CALIFORNIA FISH CANNERS ASSOCIATION, INC.,
DONALD P. LOKER,
Chairman Trade Agreements Committee.

STATEMENT ON BEHALF OF THE PACKERS AND PRODUCERS OF SOUTH AFRICAN FROZEN ROCK LOBSTER TAILS

This statement is presented to the committee on behalf of the producers and packers of South African frozen rock lobster tails so as to afford the members of the committee a factual picture of the relationship between the country or origin of this product, the Union of South Africa, in its reciprocal trade with the United States.

We present this statement as a result of the testimony made before your committee by American interests to place quota restrictions on imports of fishery products from various countries of the world, including the Union of South Africa.

It is respectfully requested that the committee carefully consider that this product, South African frozen rock lobster tails, is "presumed to be" competitive with the Maine lobster which is a shellfish sold in its "live state"; the area of distribution of which is curtailed solely because of this factor, whereas the South African rock lobster tail, is a quick-frozen product which can be transported and held in its frozen state, without losing any of its nutritional qualities or delectability, for reasonably long periods of time.

We request that due consideration be given not only to the difference in the previous (and possible future) markets in this country for the two products being

considered here, i. e., "live" lobster and quick-frozen rock lobster tails, but to the extent to which our national economy is directly affected by international trade.

METHOD OF CATCH AND EQUIPMENT UTILIZED

For the information of the committee, we would like to trace a shipment of South African frozen rock lobster tails from the "catch" in the cold clear waters of the South Atlantic (Benguella current from the Antarctic) to the market in the United States.

The fishermen set out to the fishing grounds in modern boats driven by Diesel engines—mainly supplied in the postwar period, by leading American firms such as Wolverine Motor Works, General Motors, Fairbanks-Morse, Caterpillar, and others—of from 25 to 150 horsepower. Upon reaching the fishing grounds they utilize the same methods as the Maine fishermen, i. e., lobster pots or traps. After the catch is assembled they steam back to the shore. The catch is unloaded on a wharf which is located in close proximity to the freezing, processing, and cold storage plants. The catch is then processed and made ready for freezing. The majority of refrigeration equipment is supplied by Frick Co. of Waynesboro, Pa.; the motors and generators by General Electric Co. from their Schenectady, N. Y., plant. The shops owned by the boat operators and used to maintain and service the fishing boats have the latest equipment in machine tools, supplied by leading American manufacturers, such as South Bend Lathe Co., Cincinnati Milling Machine Co., and others. Their transportation equipment, as well, is predominantly trucks built in the United States such as Chevrolet, General Motors, and Ford.

After quick-freezing the rock lobster tails are stored in modern cold-storage plants to await shipment to the United States market.

SHIPMENT TO MARKET

Now let us follow a typical shipment of South African rock lobster tails from the time it is loaded on an American ship at Cape Town, South Africa, for carriage to a United States port.

Shipment is made in refrigerated chambers on either of two American steamship companies' vessels—Farrell Lines or Robin Line. American capital is invested, the seamen and other employees engaged in operating these lines are American, the wages, profits, and supplies of the company are part of the economy of this country.

It seems incongruous in these times, when American shipping is facing difficulty in maintaining its position in the trade—and after two American lines, with the assistance of the United States Maritime Commission, have specifically provided the necessary refrigerated cargo capacity to properly carry this frozen cargo to this country—that we even consider depriving them of a very worth while cargo which they were specially equipped to handle by direct assistance from our Government.

When the shipment arrives in New York, it is unloaded by American longshoremen and loaded into American trucks to be received in American cold-storage warehouses. Again the owners and employees spend their wages and profits in this country.

The shipment is received by American importers, sold to American distributing firms, restaurants, retailers, and home consumers. Distribution centers are located in New York, Philadelphia, Detroit, Chicago, and Milwaukee. American railroads, trucking firms, and small-business men are all dependent for some part of their income on this type of international trade. They could not be solely dependent on South African rock lobster tails because this is a small item in the whole picture. It is only a minute fraction of the entire sea-food consumption of this country, yet when all the fractions of international trade are totaled they become important to our economy.

Imported products, such as South African frozen rock lobster tails, are advertised. The newspaper industry gives employment to thousands of people.

We attach hereto a schedule, entitled "Exhibit A" showing importations of South African frozen rock lobster tails to this country from 1937 to date, and while it does not present an awe-inspiring yearly figure, it is an important factor in the balance of trade between the Union of South Africa and the United States of America.

LABOR CONDITIONS

Witnesses arguing on behalf of American industry have stated that cheap labor is employed in competing countries; i. e., that the workingman is exploited, ill-housed, underfed etc. We would like to bring to the attention of the committee

the fact that the fishermen in South Africa are provided with modern housing, medical care, and recreational facilities. We do not believe this can be interpreted as "being exploited as cheap labor."

FROZEN VERSUS FRESH

We cannot see how South African frozen rock lobster tails can be classified as a threat to the Maine industry since the two products are essentially different and practically noncompeting. One, the Maine product, is a fresh product, which must be kept alive until prepared for eating. The other, the South African product, is a quick-frozen product which can be held in its frozen state for long periods of time without affecting its edibility or quality.

The South African frozen rock lobster tails has largely found its market in areas, such as the Midwest, where the live product cannot be easily or economically handled due to the fact that it does not survive transportation, even when iced and quickly sold. The South African rock lobster tail can be stocked by the dealer in the small town with minimum risk of loss because of its frozen state.

The South African producers feel that they are assisting materially in making American people "sea food conscious," especially in areas in this country where the live product never has been known, and thus, they not only indirectly benefit the Maine producers, but make people better acquainted with their fish market and fish products in general. It is the opinion of the writer that the late Franklin D. Roosevelt, during the war-years period, intimated on several occasions that something should be done to make the vast midwestern population "fish conscious." The South African producers are trying to do just that; not by presenting a product that is inferior, but by presenting a quality product that has proven itself by building up a continuing consumer demand.

MAINE PRODUCTION

It is our understanding that in the last 10 years the production in Maine, of lobsters, has more than doubled itself. We attach hereto "exhibit B" showing production in Maine, of lobsters, 1937 to 1948. These figures are taken from the records of Fish and Wildlife Service.

If this steadily increasing production can be absorbed at the high prices recently quoted by a witness from the State of Maine, appearing before the Subcommittee on Fisheries of the House of Representatives, then we cannot see how the South African rock lobster tail, a frozen product, can present a threat to the future of the Maine industry. It would seem that if the Maine lobstermen are not overwhelmed by the large quantities of the identical fresh, live product shipped here by Canada —and this same witness speaking before the House committee said they did not seriously object to these shipments—their trade would not be seriously affected by a frozen product which in the main is marketed in areas not reached by them; which has not, therefore, competed with them in the past, nor is likely to be a threat to their future.

We would also like to cite at this time that the production in Maine of lobsters is declining as compared to many years ago, and we quote from a publication of Fish and Wildlife dated December 1944, being fishery leaflet No. 74:

"The lobster fishery of New England has shown a general decline since 1889, when 30,500,000 pounds were marketed. In 1940 the total catch was 11,165,300 pounds, although there were almost twice as many traps fished as in 1889."

This decline, we believe, is not due to the inability of the market to absorb larger quantities, but is due to a decline in the lobster population in Maine beds, and although the production in recent years has increased somewhat over this 1940 figure, we do not believe the production could be materially increased without seriously jeopardizing the continuance of propagation of this shell fish.

BALANCE OF TRADE

Knowing, as we all do, that nations cannot maintain production and prosperity as individuals, but must take into consideration the world as a whole and permit reciprocal trade, it is difficult to consider limiting the importation of a product from the Union of South Africa when we consider the balance of trade between the two nations. To illustrate our point, we attach hereto figures of trade between the Union of South Africa and the United States of America for the last 6 years. This is marked "Exhibit C."

Taking into consideration the latest available figures, i. e. 1947, it can readily be seen that the balance of trade between the two countries is four to one in favor of the United States.

You will note on the bottom of exhibit C, the various products in trade between the two countries. In the minerals exported from the Union of South Africa to the United States are such strategic items—necessary to our stock piling program for possible war needs—as manganese, chrome, tungsten, as well as asbestoe and corundum.

IMPORT CONTROLS

It is true that the Union of South Africa did impose semirestrictions on imports in November of 1948. But what nation could continue to go along with such an unfavorable trade balance without limiting imports of some kind? We would like to advise the committee that these restrictions were mainly a rationing of foreign exchange, and applied to goods imported from all countries, including countries in the sterling area. The step moreover was taken to partially limit the import of consumer goods, but not of capital goods.

For the information of some committee members who may not be familiar with our good customer and friend, the Union of South Africa, I would like to quote herewith an excerpt from the 1947 issue of the South African-American Survey.

"SOUTH AFRICA MAKES LEND-LEASE SETTLEMENT

"The Honorable H. T. Andrews, South African Minister in Washington, on March 21, 1947, handed Acting Secretary of State Dean Acheson a check for $50,000,000 as the first installment of a $100,000,000 settlement of South Africa's lend-lease account with the United States. A second installment of $35,000,000 was effected on March 31, and the third and final payment to be made shortly thereafter. This was the biggest such cash transaction to date between the United States and any other government in respect of lend-lease aid. The lend-lease settlement, concluded through an exchange of notes, also pledges both governments to liberal international trade policies and stipulates that they waive all war claims against each other. 'Mutual accord on agreements relating to air transportation, telecommunications, and the avoidance of double estate and income taxation' is also envisaged by the two governments.

"This settlement is a reminder of two important factors which in these days of short memories are well worth recalling. The first is that during the war America's vast industrial resources and production converted it into an 'arsenal of democracy', wherewith to supply the implements of war to the United Nations in their fight against tyranny and aggression; and secondly that South Africa was an active belligerent in the war from the very commencement in September 1939 until victory was finally achieved. Her infantry and armored divisions, her air force and specialized units fought in Abyssinia and carried through the north African campaign in Libya, until eventually they finished as part of the Allied armies under command of Gen. Mark Clark in Italy. South Africa's war record both in the field and on war production is a proud one, and the lend-lease settlement with the United States for war materials and services received is one of the indications of the extent of South Africa's contributions to the cause of peace."

CONSUMPTION OF LOBSTER

When one considers that with a population of 145,000,000 in these United States, if through advertising and promotion each person were to consume only one pound of lobster per year, the demand could not be satisfied by all the producing areas, it is hard to realize why the Main producers should feel concern for the future of their industry.

With such a large potential market to absorb a production which is limited in South Africa, as well as in Maine, by a desire for conservation—and we presume any lobster-producing country must also fish carefully for fear of depleting the supply—there should be plenty of room in the market for all the products in question, be they fresh or frozen.

CONCLUSION

In conclusion, we respectfully submit that no longer can our national economy be considered without considering world economy. Our country cannot enjoy prosperity alone without the other nations in the world being prosperous and enjoying articles of our production. The billions of dollars of our goods which go

into the export trade represent the difference between our enjoying a prosperity or a depression. We can no longer afford to think isolationism. Our leading American statesmen must now face the fact that we can no longer afford to be politically international and economically isolationist. There can be no exports without imports. World trade is a two-way street. Clearly understand that the exports of the United States to the Union of South Africa were paid for in American dollars and were not as a result of ECA, grants or gifts from the Government of the United States. "Paying" customers, such as South Africa has been and is, do not burden the American taxpayer.

We further would like to point out that we feel that the people of America have clearly demonstrated at the polls during the last elections that they favor the continuance of the policy of free and reciprocal trade, which give to American industry a market for their high degree of production and manufacture, and without which our national economy would be seriously curtailed. Therefore we feel that no quota limitations should be put on any fishery products, including South African frozen rock lobster tails exported to the United States from the Union of South Africa.

Respectfully submitted.

ALBERT J. STELLA,
Representative of South African Frozen Rock Lobster Tails Producers and Packers.

FEBRUARY 24, 1949.

EXHIBIT A.—*Importations into the United States of South African frozen rock lobster tails, 1937–48*

	Pounds		Pounds
1937	1, 694, 487	1943	462, 800
1938	1, 288, 464	1944	0
1939	1, 587, 270	1945	433, 600
1940	1, 928, 330	1946	2, 564, 345
1941	2, 751, 911	1947	2, 236, 780
1942	1, 140, 547	1948	2, 623, 608

EXHIBIT B.—*Production in Maine, of lobsters, 1937–48*

	Pounds		Pounds
1937	7, 348, 500	1943	11, 468, 000
1938	7, 659, 200	1944	13, 250, 100
1939	7, 570, 800	1945	17, 988, 200
1940	7, 643, 000	1946	18, 775, 798
1941	8, 937, 200	1947	18, 277, 093
1942	8, 403, 800	1948	15, 923, 053

NOTE.—Above figures taken from records of Fish and Wildlife, U. S. Department of the Interior.

EXHIBIT C

Exports from the United States to the Union of South Africa		*Exports from the Union of South Africa to the United States*	
1942	$66, 323, 100	1942	$21, 450, 884
1943	47, 989, 600	1943	16, 329, 296
1944	72, 294, 988	1944	20, 462, 224
1945	111, 664, 444	1945	40, 907, 872
1946	228, 000, 000	1946	151, 000, 000
1947	418, 000, 000	1947	111, 000, 000

Principal exports to the Union of South Africa from the United States, 1947

Machinery and vehicles	$155, 428, 321
Textile fibers manufactures	114, 071, 173
Wood and paper	19, 884, 390
Vegetable and food	10, 041, 457
Nonmetallic minerals (petroleum or related products)	20, 165, 504
Metals (iron bars and rods, steel, plates, etc.)	35, 762, 724

Principal imports to the United States from the Union of South Africa, 1947

Nonmetallic minerals	$61, 736, 533
Textile fibers and products	18, 504, 292
Animal products	15, 383, 087
Metals (manganese, ore chrome, tungsten, etc.)	10, 445, 771

South Africa's diamonds (gem and industrial), Karakul (Persian lamb) skins, hides, wattle bark and wattle-bark extracts, chrome and manganese ores, South African rock lobster tails, fruit and wine figures prominently in the above categories of exports in the United States of America.

STATEMENT SUBMITTED ON BEHALF OF UNITED FARMERS OF AMERICA, INC.

Senator WALTER F. GEORGE,
Chairman, Committee on Finance,
United States Senate, Washington, D. C.:

My name is Ray Iberg, of Highland, Ill. I am chairman of the legislative committee of the United Farmers of America, Inc., an organization composed of men who believe in justice and equality, who love America, and attain their livelihood by the sweat of their brows as men who till American soil. For these people I submit the following attached remarks and recommendations for consideration by you and the members of your honorable committee:

A STATEMENT RELATIVE TO H. R. 1211 AND TRADE AGREEMENTS

In reference to H. R. 1211 as recently passed by the House and now under consideration by your committee, the United Farmers of America, Inc., feel that H. R. 1211 in its present form, unless revised, is dangerous legislation, because it places into the hands of the President of the United States and the executive branch of our Government the right to reduce tariffs as much as 50 percent in return for concessions from other nations; also the power to negotiate trade agreements with foreign countries without the sanction of Congress in violation of the Constitution under article 1, section 8.

Many of the hirelings within the State Department who will help formulate these policies and promote trade agreements, are men who do not have the best interests of America at heart.

The past is ample proof as to what we can expect from this caliber of men, many which are multimillionaires and became that way at the expense of the American taxpayer.

For example, William Clayton, of the Anderson Clayton Co., while occupying the position of Assistant Secretary of State. In one instance Mr. Clayton sold to the United States Government 255,000 bales of cotton at a price of more than 3 cents a pound above the market price on the date of sale. The profit on this deal of 255,000 bales of cotton amounted to more than $3,000,000.

Also, you will recall the days when American farmers paid fines for growing wheat. A brief analysis of the facts boils down to the point that our so-called surpluses was imported wheat.

This was done for the benefit of a few big-shots at the expense of the American farmer.

The records clearly show that for every acre we took out of production, more than an acre of the competing agricultural products was imported.

In fact in 1940 we imported $1,239,444,000 worth of agricultural products while we exported to the amount of $737,640,000 in agricultural products.

In 1941 the story was much worse; we imported agricultural products to the amount of $1,473,661,000 while we exported a measly $349,821,000. About four times as much agricultural products was imported as was exported in 1941.

Yet, gentlemen of the committee, this was during the time american farmers paid fines for growing wheat.

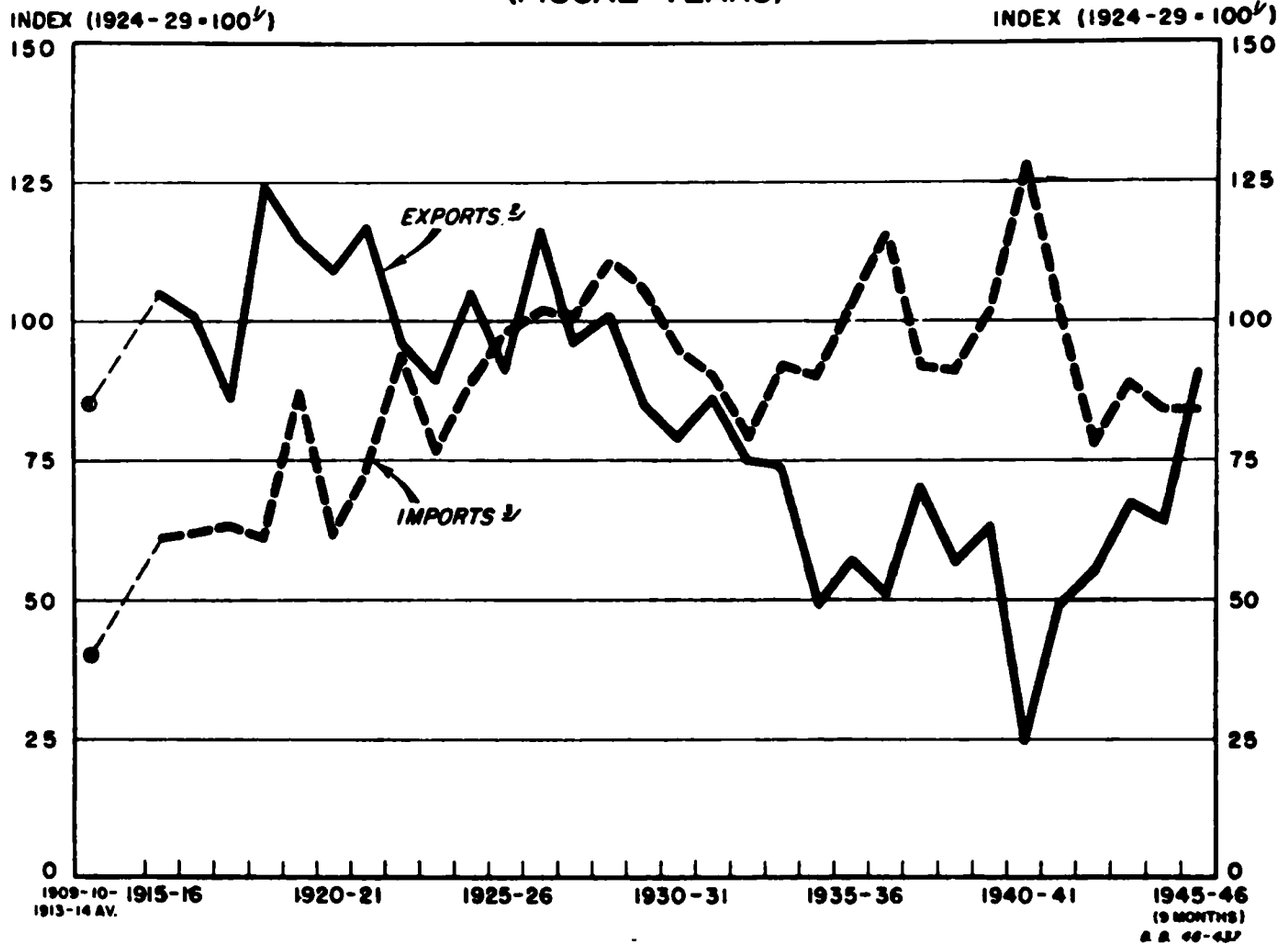
To verify these figures you may check with the Statistical Abstract of the United States of 1944–45, table 715, on page 656. Also find attached a copy of a chart from the United States Department of Commerce, and very worthy of consideration.

In the Trade Agreements Act of June 12, 1934, Congress set forth the objectives of the act in part as follows: "for the purpose of expanding foreign markets for the products of the United States (as a means of assisting in the present emergency in restoring the American standard of living, in overcoming domestic unemployment and the present economic depression, in increasing the purchasing power

of the American public, and in establishing and maintaining a better relationship among various branches of American Agriculture, industry, mining, and commerce) by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production."

CHART No. 1

QUANTITY INDEXES SHOWING CHANGES IN U. S. AGRICULTURAL EXPORTS AND IMPORTS FROM 1915 TO 1945 (FISCAL YEARS)



[1] Calendar years.
[2] Exports of United States merchandise; Lend-Lease and UNRRA shipments included in recent years.
[3] General imports through 1932–33; imports for consumption thereafter.

Source: Trade Statistics Division, Office of World Trade Promotion, U. S. Department of Commerce.

When world conditions changed and a world organization was formed, Congress proved that it still held that its first duty to the United States and that it—Congress—is not to be relegated to the status of an instrument of a super world government, by declaring, in the Bretton Woods Act agreement that, among others, it is the policy of the United States to "eliminate unfair trade practices, promote mutually advantageous commercial relations, and otherwise facilitate the expansion and balanced growth of international trade."

Now, gentlemen of the committee, those were the purposes of the act under authority of which the State Department had the privilege of negotiating trade agreements. Those were the declared policies of the United States as stated by Congress.

In order to fully stress the objectives of the State Department it is necessary to call attention to a series of statements made by former Assistant Secretary Clayton and other official spokesmen of the Department as reported in the press and as members of radio panels. Those spokesmen have stated quite frankly that it is their purpose to bring about greatly increased imports of raw materials into the United States. They have stated that, if we are to export our industrial products, we must be prepared to receive greatly increased imports of raw materials in payment thereof. They have spoken so often and so frankly on this subject that there is not the slightest doubt of their intentions.

Raw materials are the things we farmers produce. It would be an insult to ignorance of the American people for anyone to contend, in the light of the fore-

going facts, that the State Department does not intend a general reduction of our agricultural tariff rates.

As I shall presently prove, it is the intent of the State Department to effect such trade reductions in support of one of the provisions of the suggested charter for the ITO. That suggested charter was proposed by Clare Wilcox at the London meeting.

The provision which the State Department intends to give special support to, as advocated by Mr. Wilcox and which has been accepted in principal as one of the fundamental bases for the suggested charter, is exemplified by Mr. Wilcox's statement that "no nation should hold production and prices of staple commodities at levels which could not be sustained by world demand."

Staple commodities are the products of our farms. Both the State Department and the President stated in the official release of the 9th of November 1946 that trade agreements are being negotiated in support of the suggested charter. In plain English, that means trade agreements are being negotiated for the express purpose of forcing farm commodity prices in the United States market down to or below world prices.

Nowhere in any of the documents of that official release of the 9th of November 1946 can you find a single reference to any of the purposes or policies as declared by Congress.

It is the belief of the United Farmers of America that anything which is done in the name of our bipartisan foreign policy should be thoroughly scrutinized by both political parties.

Congress can protect the farmers and the Nation by retaining unto itself the authority to effect trade agreements, thus placing that authority where the Constitution delegates it, in the Congress of the United States.

This is a step away from bureaucratic dictatorship and a step toward retaining constitutional government.

The United Farmers of America feel that the welfare of this Nation is too great to place into the hands of the President and his hirelings the power to negotiate trade agreements, when we have men within the departments who will not answer the question "Are you a member of the Communist Party?", a question any good American would welcome and be only too proud to answer.

Are we going to permit these hirelings and multimillionaires to have the opportunity to repeat their past actions and promote their intentions as previously outlined? If not, defeat H. R. 1211 in its present form. Surely the Members of Congress, who are the representatives of the people, should retain the power to approve or disapprove any trade agreement with a foreign nation.

What constitutional right has any man, including the President of the United States, to enter into a trade agreement with a foreign nation that would place any American producer in direct competition with a foreign country that employs slave labor?

Neither the Congress nor the President would have the courage to enact a law that provided for industry to be on a protected basis but agriculture on a free basis; yet this is being done and the people ought to know about it. The real purpose and intent of the so-called Reciprocal Trade Agreements Act is to manipulate tariffs favorable to industry and unfavorable to the producer of raw material, and this is being done without the people knowing what is going on.

It is the intention of the United Farmers of America to let the cat out of the bag; the public must know the truth. The great majority of the American people have not yet learned what and how these trade agreements have affected us in the recent past; and H. R. 1211, unless revised, will again permit a few multimillionaires to enjoy these privileges at the expense of the American taxpayer and perhaps our American way of life.

By importing into the United States cheap agricultural products produced on fertile soils of other countries with cheap labor, if continued, will cost the American farmer his home market, not only on wheat and cotton but also on corn and meat and every other farm crop and product.

True reciprocity is a wonderful thing. No sane American would object to the importation of goods of which we are in need, but we do oppose and object to importation of these goods or commodities when they come into direct competition with the American producer.

Let's briefly analyze the result of importation of competing agricultural products on the economy of this Nation.

First, it is the major factor to bring about acreage controls and regimentation together with a surplus condition which has a tendency to lower farm prices.

To lower farm prices would indeed be dangerous to the welfare of America for the simple reason that gross national income is always approximately seven times

gross farm income, and year in and year out for the past 25 years this ratio has been found to be true.

Therefore, you cannot reduce farm income without reducing national income, as every dollar of gross farm income automatically creates a dollar of factory pay roll and approximately $7 of gross national income. This is known as the 1–1–7 ratio and has never been refuted because the national record cannot be disputed.

In the year 1940, American farmers had 10 times the capital investment of our steel and automobile industries combined and employed 10 times more labor. Also, the American farmer produces about 65 percent of all the raw material produced; in turn, he is the greatest consumer. He purchases approximately 40 percent of the products of industry.

During 1948, farm income was about $33,000,000,000, and the national income was approximately $247,000,000,000, which again proved that national income is approximately seven times the total income of all those who farm.

At the present time, the Federal budget is $41,500,000,000, and the States, counties, cities, and districts have budgets totaling about $14,000,000,000, which together makes a total tax bill in the sum of approximately $55,000,000,000. If Congress expects to collect enough in taxes to support the Federal Government, then our total gross farm income in 1949 should be no less than $35,000,000,000. This will result in a gross national income of approximately $250,000,000,000. Any less will mean a shortage of tax funds. Remember, the people pay taxes to support the Federal Government, and they pay upon their net income and not their gross income.

We simply cannot maintain a high national income without a high farm income, and our farmers cannot compete with the cheap labor of foreign countries.

The surest way to communism is by way of depression, brought about by low farm prices.

It is a travesty on justice for Congress to place into the hands of the executive branch, wherein is employed these men who have made such vicious attacks upon American agriculture, the right to consummate trade agreements without retaining the constitutional right of approval by Congress.

Of course, the international bankers and traders with interests in many foreign lands, the international multimillionaires who now infest our State Department, and the hirelings who refuse to answer the question as to whether or not they are a member of the Communist Party would approve of H. R. 1211 in its present form, because they are not concerned about conserving American constitutional government.

The United Farmers of America love this country. We are all farmers; we are exactly what our name connotes; first, last, and always Americans. We believe in the preservation of constitutional government as established by our forefathers; we believe in high American standards of living and Americanwages for all our workers. We will strive to keep alive the spirit of 1776.

Therefore, the United Farmers of America submit to your honorable committee the following recommendations:

1. Revise or revoke H. R. 1211.

2. We recommend that Congress should retain the right to sanction any trade agreement drawn up with a foreign nation, in compliance with the Constitution, article 1, section 8.

3. We recommend the abandonment of all regimentation of every kind and the immediate return to a free American economy.

4. We recommend that Congress recognize the natural economic law which results in the national income being approximately seven times the amount of gross farm income and five times the income of the producers of all raw materials.

5. We recommend the enactment of a law to place a minimum floor under all basic farm crops at an American price level of true parity for that portion consumed within the United States. This, of course, means actual parity and not some arbitrary figure or fake parity as now exists.

6. We recommend a flexible import tax on each commodity so that the amount of the import tax, when added to the market price of such product in the country where produced, will amount to 110 percent of the parity price of such product.

7. We further recommend that this import tax vary automatically with the change in market price in this country on each commodity.

As an example, and as an arbitrary figure, let us suppose that actual parity on wheat is $2.50 per bushel; 110 percent of $2.50 is $2.75. Therefore, wheat coming into this country must come in at a price of $2.75 per bushel.

If the wheat is coming in from Argentina and the Argentine farmer is receiving $1.50 per bushel, then the import tax would be $1.25 per bushel.

If the American price of wheat went down to $2 per bushel, then the import tax would rise from $1.25 per bushel to $1.75 per bushel. This would make Argentine wheat sell on the American market at a price of $3.25 per bushel and would automatically shut out all foreign wheat when American wheat was selling below parity.

On the other hand, if we had a shortage of wheat and the American price went from $2.50 to $2.75 per bushel, then foreign wheat and American wheat would sell on the American market on an equal basis.

Should the American shortage of wheat get worse and the price rise to $3 per bushel, then the import tax would fall to 75 cents per bushel. This would encourage the importation of wheat from other countries. Once we had enough wheat to supply our own needs, the American price would gradually decline, and as it declined it would automatically shut out the inflow of foreign wheat.

In effect, this is an import tax which affords automatic protection to producers here in the United States.

This is an import tax which would automatically cause the importation of the things we need and would shut out the things we do not need.

This is an import tax which would automatically make each nation with whom we trade a preferred nation to the extent that its own internal economy approached the same level as our economy.

It would also enable us to trade with those nations with whom we can afford to trade without granting any special privileges to any and without discriminating against any nation.

As mentioned before, the international multimillionaires, the pinks and reds who are all set to destroy America will not approve of this policy.

However, we believe that a review of our immediate history and how we got the way we are will convince the members of this committee of the soundness and fairness of these recommendations.

This testimony prepared and submitted by—

RAY IBERG,
Chairman of the Legislative Committee, United Farmers of America, Inc.

Endorsed by—

ARTHUR C. HELLEMAN,
National President of the United Farmers of America, Inc.

STATEMENT SUBMITTED BY T. R. SCHOONMAKER, EXECUTIVE SECRETARY FOR THE ASSOCIATION OF FOOD DISTRIBUTORS, INC., NEW YORK, N. Y.

With regard to the hearing before your honorable committee on reciprocal tariffs, we respectfully submit the following:

In general, the import agents' division and import merchants' division of the Association of Food Distributors, Inc., favor the extension of the Reciprocal Tariff Act with as few restrictions as possible because they consider that the progressive reduction of trade barriers is one of the most necessary steps to achieve the objective of world prosperity and peace. They believe that as free a flow of international commerce as possible is necessary to achieve general world prosperity, which in turn is necessary to achieve the prosperity of any one nation, including the United States, and all of which is necessary in the maintenance of international harmony and peace. In specific, we wish to refer in this brief to two types of canned fish which are of particular interest to some of the members of the import divisions of the Association of Food Distributors.

1. *Canned Sardines.*—The predominant portion of canned sardines that are imported into the United States come from Portgual and Norway. To a lesser extent, sardines are imported from Morocco, France, Sweden and Spain. Norway and Portugal will ordinarily account for at least 90 percent of the importations.

With the exceptions which are so rare that they should require no reference, sardines imported into the United States do not compete with the domestic pack. The domestic packs of sardines are confined primarily to the northeastern coast of the United States, principally Maine, and the Pacific coast, principally California. It should be noted that the packs in Maine and California are not similar to each other, as they differ in characteristics, size, color, flavor, etc. The California pack is of large fish and is often referred to as pilchards and/or tomato herring. It is generally packed in large cans and, for the domestic market, packed in tomato sauce. Maine sardines are usually packed in small cans, is a small fish, and is usually packed in cottonseed or soybean oil.

The imported sardines are not comparable in quality or price to either of the two domestic types. The Portuguese sardines are imported into the United States predominently in the variety of skinless and boneless in olive oil. This is

a specialty pack and a luxury, and there is no domestic sardine packed in this manner. Comparing the Portuguese sardine to our Maine sardine by weight of the can (as this is the only possible comparison), the average retail price of Portuguese skinless and boneless sardines in olive oil today is between 30 and 35 cents per can. The average price of the Maine sardines is between 10 and 12½ cents per can. Prior to the war, the average selling price of Portuguese sardines was about 15 cents per can. Prior to the war, the average selling price of Maine sardines was 4 to 5 cents per can. Therefore, it can readily be seen that the Portuguese sardine in no way competes with our domestic sardine. The California sardine is packed in no size can that is comparable to the Portuguese, and, furthermore, the fish has less resemblance even than the Maine sardines.

The Norwegian sardine is packed in two types. One is Brisling, the other Sild. The Brisling sardine is a very small sardine and is of a higher grade than that which is packed in Maine, and also has no resemblance to the California fish, which, as referred to before, is a large fish of the herring type. Brisling is packed in oil and, comparing it by weight of can again with Maine sardines, the average retail selling price is about 35 cents per can. Before the war, the average selling price was about 15 cents per can.

The Sild sardine is also a small sardine but not as small as the Brisling. It is an inferior grade to Brisling and in quality, comes between the Maine sardine and the Brisling. It retails today for about 25 cents per can. Before the war, the average price was about 10 cents per can.

Thus it may be seen that prewar and today the Portuguese sardine generally sold about 2½ times the price of the nearest comparable domestic sardine. Norwegian Brisling usually sold at 2½ to 3 times the price, and the Norwegian Sild sardines at approximately twice the price. We wish to emphasize that these comparisons can only be made by weight. It would be virtually impossible to establish the same sort of comparison for California sardines, which are never packed in the same type of container nor have any other characteristics which are similar, other than both are fish.

It is to be noted that the pack of sardines in Maine during 1948 was approximately 3,000,000 cases, all of which has been disposed of. The importation from Portugal has been approximately 100,000 cases, an insignificant percentage, and there is a large carry-over in the hands of the importers. The Norwegian importation has been approximately 300,000 to 400,000 cases.

II. Canned tuna fish.—(*a*) Prior to World War II imported tuna fish, consisting primarily of albacore from Japan (white meat) and yellowfin and bluefin (light meat) from the Philippine Islands and other adjacent territories, were an important factor in the tuna-fish business in the United States. It may be well stated that they were important in promoting the consumption of tuna fish in the United States and had a great deal to do with the development of the canned tuna-fish industry as a whole on the west coast.

(*b*) The duty established by the Smoot-Hawley tariff on canned tuna fish packed in oil was 45 percent. In 1943, under the trade agreement with Mexico, this duty was reduced to 22½ percent. The reduction in duty, far from injuring the domestic industry, proved a boon. Not only has the consumption expanded to where it is probably double, but also the price has increased approximately 300 percent for the domestic pack. It is the opinion of our groups that although the war was an important contributory factor, it is not the only factor. The most important contributory factor was the tremendous increase of consumption which has developed during the past 10 years.

(*c*) Although we again state that we are not prepared statistically, nevertheless it is true that the percentage of tuna fish imported into the United States is only about 5 percent of the domestic pack.

The most important factor in the development of the canned tuna fish industry has been the remarkable increase of consumption. This consumption will be maintained and increased, based upon the value to the consumer in relation to other commodities. It should be considered that despite the fact that the duty has been previously reduced from 45 percent ad valorem to 22½ percent on canned tuna fish, the price has steadily increased and only now has shown signs in certain tuna fish products, notably albacore, of declining to more reasonable levels. It is also to be noted that imported albacore is the smallest by volume of imported tuna fish. Thus any decline in the price of albacore tuna fish cannot be attributed, even by the largest stretch of the imagination, to the competition of the imported commodity.

Our association respectfully submits to the honorable subcommittee that the requested imposition of a quota restriction on these imports is a device to circumvent the reciprocal trade agreements, the continuing policy of our Government,

designed to protect the entire American economy. In consideration of such a departure of established policy, we request the subcommittee to consider the following important facts:

1. A healthy economy depends just as much on the ability of consumers to buy at reasonable prices as the ability of producers to charge high prices.
2. If it can be argued that labor employed in the canned fish industry is injured by foreign importations, it must also be argued that labor employed in other industries whose welfare is dependent entirely or partially on imports or exports are injured probably to a much greater extent by the imposition of import restrictions which might have the effect of breaking down our international trade and foreign policy.
3. It should also be considered that if labor employed in a specific industry is contributing to an extraordinary high price of a product, this in effect is insuring the take-home pay of all labor, which must pay the high prices of the consumer goods.

In addition we feel that the subcommittee should also consider the following in connection with restrictions of importations of canned tuna fish.

1. Involved in the importation of canned tuna fish are American exports of a number of essential commodities which are used in the packing thereof; namely, tins and/or tin plate, wire strapping, machinery, labels, and packing material such as nails, and all that this implies. These essential commodities, dependent in large measure upon American export services, cost a great deal more than these same services cost in the United States.
2. The payment facilities in dollars provided to these friendly countries from whom we import canned fish are used solely in the building up of their general economy through importations of goods and services from the United States, which in turn lessens the burden on the American taxpayer.

STATEMENT SUBMITTED IN BEHALF OF THE SUN HARBOR PACKING CO., SAN DIEGO, CALIF., AND THE AMERICAN TUNABOAT ASSOCIATION OF SAN DIEGO, CALIF

The Sun Harbor Packing Co. is one of the major canners of tuna fish on the west coast. The American Tunaboat Association is a nonprofit association of owners of refrigerated bait boats engaged in tuna fishing, and is authorized to speak, in this matter, for the Lower California Fisheries Association of San Diego and the Fishermen's Cooperative Association of San Pedro, Calif. The American Tunaboat Association and the Lower California Fisheries Association represent approximately 90 percent of the 196 vessels of 40 or more tons capacity engaged in high seas tuna fishing by the bait method. The Fishermen's Cooperative Association represents approximately 95 percent of the 110 vessels engaged in high seas tuna fishing by the purse seine method. Between them, these three associations account for between 75 and 85 percent of all the tuna landed in the United States by American vessels.

We wish to make clear that we are not opposed to the theory of reciprocal trade as such. Considered, as it should be, as an amendment to the basic Tariff Act of 1930, we think that the exercise of its provisions to lead to eventual free trade throughout the world in all commodities is a wholesome function. We do wish to point out, however, patterns which must receive thorough attention in the exercise of its provisions in order that all American industry will benefit. We also wish to urge the retention or reestablishment of procedures under this legislation which our experience indicates guarantees to domestic industry that their representations, upon notification of a pending trade agreement, will be heard by a governmental body having some knowledge of the industry's past and its current problems. Finally, we would like to present examples of legislation applicable to current problems in the tuna industry and suggest variations of them as solutions.

I. THE IMPORT SITUATION

The present trend of imports of canned tuna has an almost exact parallel to events in recent history which is alarming to the domestic industry. In the late 1920's Japan discovered the United States as a market for canned tuna and went into full production. The duty existing at the time was 30 percent ad valorem. In 1931, 937,029 pounds were imported. In 1932, the imports totaled 5,945,180 pounds. In 1933 imports pyramided to 14,382,168 pounds. A special investigation was ordered, the Tariff Commission presented a full report to the President, and as a result the tariff was raised the full 50 percent as permitted under the law to 45 percent ad valorem.

Imports went down in 1934 to 7,955,608 pounds, just about half of the 1933 high, but it was not the raising of the tariff which was responsible, but rather voluntary agreement among Japanese producers, through their official semi-governmental trade association, to restrict their exportations to the United States. This agreement was prompted by an industry petition under section 3E of the NRA for an embargo to prevent the dumping of canned tuna as well as frozen tuna. The Japanese decided in conversations with our Government to limit themselves to exporting fixed quantities to us, rather than risk complete loss of the United States market. It is significant here to point out that the United States is the only market of any consequence in the entire world for canned tuna.

Projecting the above history into the present, we have today a lower tariff than ever on canned tuna, 22½ percent ad valorem, and we have the same pattern of rapidly pyramiding imports, just now starting. In 1946 imports were about 4,739,000 pounds. In 1947 they were 6,148,000 pounds. Figures just compiled by the Tariff Commission for 1948 show imports to have been 8,289,422 pounds. Of this total, Japan supplied 645,423 pounds to rank third behind Peru and Portugal as the principal importing countries. Japan did not send a pound until September 1948. By December this had grown to almost 650,000 pounds.

The one feature in which the past few years do not parallel the 1931–33 era is in the number of countries from which tuna is imported. In the earlier period Japan sent in over 99 percent of the imported tuna. Now 8 countries are contributing over 50,000 pounds each year and 18 in all are managing to send imports ranging from Peru's total in 1948 of 4,682,435 pounds to Algeria's 230 pounds.

A sample of what to expect this year can be gained from noting the customs reports. As an example, on February 9, during a single day, 19,509 cases or 409,689 pounds of canned tuna were received in New York from Japan—and the year is young.

II. PROCEDURAL RELIEF

Canned tuna is one of the commodities listed for negotiations scheduled to commence in April of this year at Annecy, France. In compliance with present law, hearings were scheduled before the Tariff Commission last December. Simultaneous hearings on the several commodities listed were also had before the Committee for Reciprocity Information. Spokesmen for the Sun Harbor Packing Co. and the American Tunaboat Association appeared before both of those bodies, as well as representatives of all other segments of the tuna industry.

The present duty of 22½ percent on canned tuna was effected by the trade agreement with Mexico which was put into operation on January 30, 1943. There was some question prior to the hearings last December as to what changes could be made in this duty at the coming Annecy negotiations because tuna was on schedule III of the Mexican trade agreement, which concessions could be withdrawn upon the termination of the national emergency. It was extremely satisfying to the tuna industry to hear the Tariff Commission make quick and definitive reply to the effect that no changes could be made while the trade agreement with Mexico was in effect. The Committee for Reciprocity Information replied that governmental agencies we had consulted prior to the hearings with respect to our questions were most authoritative and declined further answer.

There is no reflection meant on the competency of the Committee for Reciprocity Information. It is realized that that body is made up of representatives of several Government departments who are concerned with the broad questions of international trade. To a witness appearing before both bodies, however, it is at once apparent that the Tariff Commission, by definition, is more intimately acquainted with each industry as far as its past history with respect to international trade is concerned. Within the Commission there are commodity experts who know thoroughly the status of the thousands of commodities covered by tariff and trade legislation. This Commission should continue to be the forum before which problems such as ours can be defined and discussed.

Under section 336 of the Tariff Act of 1930 (19 U. S. C. A., sec. 1336) the Tariff Commission is empowered to make a cost of production inquiry on any article and report to the President such increases or decreases in rates of duty as it finds necessary to equalize differences between costs of domestic producers and foreign producers of like or similar articles. Then the President, by proclamation, may in his discretion increase or decrease the duty, but not to exceed 50 percent of the rate expressly fixed by statute. Very importantly, however, this investigation is not available to commodities covered by an existing trade agreement, for reciprocal trade legislation expressly states (19 U. S. C. A., sec. 1352 (a)):

"The provisions of section 336 * * * shall not apply to any article with respect to the importation of which into the United States a foreign-trade agreement has been concluded. * * *"

Producers of canned tuna, as well as the producers of thousands of other commodities, cannot therefore petition for a section 336 investigation. We point this out simply to show that present statutes do not offer a definite channel for relief for a producer alarmed by rising imports of his product.

A channel of somewhat different scope, however, has been opened by the insertion of an escape clause in reciprocal trade agreements since 1942. Though tuna is not one of them, there are a number of commodities affected by trade agreements having no escape clause. They are consequently in a limbo with no avenue of relief, for they have no escape clause and under the law they are barred from a section 336 investigation. The Mexican trade agreement does contain an escape clause, but utilization of this procedure by the tuna industry is of doubtful value for the reason that a successful effort under it would only restore the duty to 45 percent ad valorem. Foreign packers, with so much lower costs, can bring their product to New York at a rate which would require a substantial increase in the duty over that allowed by existing law before a semblance of equalization would be effected.

We favor the procedure in the present act, which provides for a hearing by the Tariff Commission and imposes the duty upon it to find peril points. The tuna industry is fortunate in having had the opportunity to be heard under the present act. Whatever recommendations may issue in the Tariff Commission's report to the President, we feel we have been heard by a body competent by long experience to judge the evidence we brought before it. The representations by the industry augmented historical material on the industry which the Tariff Commission has been compiling since its inception.

We believe it is in the public interest that the Executive should be required to publish any deviations from the recommendations of the Tariff Commission.

III. EXAMPLES OF METHODS OF IMPORT RESTRICTIONS AND POSSIBLE VARIATIONS

There is no specific provision in the law relating to quotas. The Reciprocal Trade Agreements Act, however, permits the President, whenever—

"* * * he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States * * * (1) to enter into foreign trade agreements * * * and (2) to proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions * * * as are required or appropriate * * *."

This language has been in the act since it became law in 1934. Under "such additional import restrictions" quotas have been placed on fish fillets, whole milk, filler tobacco, potatoes, cattle and butter, among other commodities, without the necessity of legislation.

The machinery of the Trade Agreements Act itself has been used to establish quantitative restrictions on the above-named products. These, on the whole, however, have been tariff quotas under which a stated quantity of a product may be imported at a certain tariff figure, all overages being assessed at a higher rate.

Absolute quotas, on the other hand, allow only so many pounds of a product to be imported and no more. An example of the use of this device is found in the act of April 30, 1946 (22 U. S. C. A. sec. 1251), relating to trade with the Philippines. Under it, absolute quotas are set on imports of sugar, cordage, and rice from that country. There are also, under the same legislation, absolute and duty-free quotas on cigars, scrap tobacco, coconut oil, and buttons of pearl or shell. These latter products, interestingly enough, are set on a diminishing scale for the years 1954 through 1974 so that at the end of the latter year, none of these products may be entered duty free although they may be entered up to the quota limit upon paying the regular customs duty.

Under section 22 of the Agricultural Adjustment Act as amended (7 U. S. C. A., sec. 624), if the President has reason to believe commodities are being "or are practically certain to be imported" under such conditions or in such quantities as to endanger the purposes of the act, then he may cause the Tariff Commission to make an immediate investigation and report. Upon the basis of the report the President may impose fees not in excess of 50 per centum ad valorem "or such quantitative limitations" as he finds necessary on imports. By utilizing this section, quotas have been placed on wheat and cotton. Various acts of the Congress have also established quotas on some agricultural products, such as sugar.

Another example of a type of quota in international trade relates to the importation of coffee under the Inter-American Coffee Agreement which entered into effect by Presidential proclamation on April 16, 1941 (19 U. S. C. A., sec. 1355). This agreement provided for coffee quotas from the participating countries in order "to promote the orderly marketing of coffee in international trade, with a view to assuring equitable terms for both producers and consumers by adjusting supply to demand." In conjunction with this, Congress, by the act of April 11, 1941, said that "no coffee imported from any foreign country may be entered for consumption except as provided in said agreement" reserving, however, authority in the President to permit countries not in the agreement to supply a fair share of the quota in order to make available the types of coffee usually consumed in America (19 U. S. C. A., secs. 1355, 1356).

These various illustrations of the techniques used in fostering foreign trade while protecting the domestic producers are illustrative of methods which are certainly applicable to the tuna fishery, as well as to any domestic industry.

In addition, we would like to suggest the following variations of present techniques:

1. *Percentage quota.*—This method would involve a determination of the domestic market on a certain product over a period of several years. Figures are readily available. A percentage of consumption would be allocated to foreign producers; the remainder would be for domestic producers to supply. It could be provided that the basic figure would not be lowered for the duration of the scheme, but that the percentage would be figured, after the first year, on the basis of consumption during the prior year. This is a share-the-market plan. It does not involve an absolute quota, but a percentage of consumption. Both domestic and foreign producers would be assured some market while greater benefits for their industries would depend on the efforts of both to increase the aggregate market. In the case of tuna, it should provide some impetus to foreign producers to develop the market for canned tuna at home, instead of depending on what is presently almost an exclusively American taste for this food.

2. *A new tariff quota.*—This would involve taking an average of imports over a period of years, possibly three or five, and permitting imports to come in up to the average figure at a moderate duty. All overages, however, would be assessed at a duty which would reflect as exactly as possible the difference in cost of production here and abroad. This has all the advantages of the first suggestion, the main difference being that it would permit any amount of imports, with those over a certain figure being assessed a duty tuned to the present value of the dollar. Another difference between these two ideas is that the first can be effected purely by the Executive. Under the President's authority in the portion of the act previously quoted to impose "such additional import restrictions" as he deems appropriate, quotas have been and could be established. The percentage idea is in effect a sliding quota and it appears that the President could use this method if he found it desirable in a particular case. This second suggestion, however, would undoubtedly mean the fixing of tariffs, on some commodities at least, in excess of the rates listed under the Tariff Act of 1930, as amended. Only Congress could amend this legislation accordingly.

Whatever decision is reached by the Congress, our effort has been to show that we are sensible to a growing import problem. We want to meet it within the policies of reciprocal trade. We want our Government to be aware that in the tuna industry, if not in every industry, free trade cannot come all at once. Nations are not equal in living standards, and we cannot make them so. Reciprocal-trade legislation should be looked at as an amendment to basic tariff legislation which, through informed administration, will lead to a greater degree of free trade. We suggest that the statutes should do something to insure this gradual process if only by assuring a hearing before an informed body with a background of information about domestic-industry-import problems.

The CHAIRMAN. Suppose we recess until 10 o'clock tomorrow morning.

(Whereupon, at 5 p. m., the committee recessed, to reconvene at 10 a. m., the next morning, Friday, February 25, 1949.)

86697—49—pt. 2——21

EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT

FRIDAY, FEBRUARY 25, 1949

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to adjournment, in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senators George (chairman), Byrd, Hoey, Millikin, Brewster, and Williams.

The CHAIRMAN. The committee will come to order.

Senator, I suppose you wish to commence where you left off, or in the neighborhood.

Senator MILLIKIN. In the neighborhood.

Senator BREWSTER. You may fire when ready, Gridley.

Senator MILLIKIN. We closed yestereday, I believe, considering article III of part II, and as I recall it, you were going to review the situation during the evening. You might have some more suggestions to make.

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE—Resumed

Mr. BROWN. You asked what changes might be required in our legislation by section 3 when definitely put into effect. I mentioned two or three and said there were others, and I am now prepared to say what those others would be.

You will recall that I said the processing tax on coconut oil, which is a preferential tax, would have to be changed into a tariff under this agreement if it were put fully into effect, and that would require congressional action. Similar action would be required in the case of the internal tax on palm oil and palm kernel-oil and on domestic-filled cheese. But in each case it simply involves a change in form but not in the level of preference or protection.

Senator MILLIKIN. May I say for the benefit of Senator Williams and Senator Brewster that in discussing these various articles of GATT we are developing what parts of those articles might require action by Congress or approval by Congress, and Mr. Brown is addressing himself to that question, so far as article III, part II of GATT is concerned.

Mr. BROWN. I also reported that the tax on imported oleomargarine, which is higher than the similar tax on domestic oleomargarine, would need to be repealed; and that is also true of the tax on adulterated processed butter.

Finally, manufactured sugar is taxed at the same rate, imported and domestic, but manufactured sugar is defined to exclude sirup of cane juice if produced in the United States. That aspect of it would be discriminatory and would require congressional action to change, under this article.

Senator BREWSTER. Was not that sugar matter something that aroused a great deal of controversy among certain industrial concerns? This liquid sugar?

Mr. BROWN. I don't know the history of that, sir.

Senator BREWSTER. I had the recollection that there was a great deal of controversy between certain soft-drink concerns.

The Chairman. That was, I may explain, Senator Brewster, during the OPA days, the restriction days. It did become a matter of controversy, because sugar was being imported in the form of a liquid sugar or sirup, and it was a matter of controversy at that time because there were restrictions upon the quantities that could be used in this market by the soft-drink manufacturers, among others. Some of them conceived the idea of importing large quantities in this liquid form, and that was the controversy. But I suppose that passed away with the lifting of those restrictions.

Senator BREWSTER. I wonder, as to this matter of differentiation, whether it would have any particular significance. It is perhaps not important to explore, but does that involve a redefinition?

Mr. BROWN. No, sir; it would simply mean putting the same tax rate on both the imported and the domestic product.

Senator MILLIKIN. We had finished, had we not, the discussion of the interpretative notes on article III?

Mr. BROWN. I think so, sir.

Senator MILLIKIN. Article IV contains provisions relating to exposed cinematograph films.

Mr. BROWN. We discussed that, Senator.

Senator MILLIKIN. We discussed that up ahead in connection with another reference.

As to this article IV, are the provisions of GATT similar to the provisions of article 19?

Mr. BROWN. I think they are identical, sir.

Senator MILLIKIN. And are they in the same language?

Mr. BROWN. If not identical, it is so much so as to not make any difference.

Senator MILLIKIN. I notice some similarity of language, just from a quick scanning. In fact, on this first page, I think this language is identical.

Mr. BROWN. I think it is to all intents and purposes identical.

Senator MILLIKIN. Yes.

Senator BREWSTER. Are export taxes involved at some point in this situation?

Senator MILLIKIN. Well, export taxes have impact on countervailing duties; or they might have impact on countervailing duties, might they not?

Mr. BROWN. Yes, sir, they are subject to negotiation. The export tax is usually something which we encounter, such as the export tax on tin, Senator Brewster, which is a limitation on our capacity to get at the material.

Senator BREWSTER. But I was thinking of the export tax on rubber. That, when we were getting into the rubber situation, became very crucial and was used very much to our disadvantage and aroused the ire of Jesse Jones very bitterly, as to what they did in that.

Mr. BROWN. This agreement makes those taxes subject to negotiation, and we have succeeded in getting the differential export tax on tin removed in the general agreement.

Senator BREWSTER. What about rubber, from the Dutch East Indies? That was a very crucial thing at the beginning of the war.

Mr. BROWN. I don't know that that still exists, Senator. I just don't know the answer to your question.

Senator MILLIKIN. I think later on in here we come to definite provisions having to do with export taxes. Is there not something that touches on the tin situation?

Mr. BROWN. The export taxes are referred to in the most-favored-nation clause in the beginning.

Senator BREWSTER. Will we come to that later at some point? I would like to have you get the facts on that rubber matter, because I know our consul general in the Dutch East Indies reported that following the war that should be one of the matters that we should give much attention to, inasmuch as it was being used very much to our disadvantage.

Mr. BROWN. I will have that checked, Senator.

(This following information was subsequently supplied:)

Both Malaya and the Netherlands Indies (the principal rubber-producing territories) had a rubber export tax prewar; both have such a tax at present. Although the prewar taxes yielded revenue, they were also used to implement the international rubber regulation agreement, which was an agreement among rubber-producing countries to limit rubber exports. The prewar taxes were very complicated in application. In Malaya they involved the assessment of taxes on a uniform scale for those quantities of exports which came within the quota set by the agreement but on increasing scale as the quantity of exports exceeded the quota. This type of assessment made it progressively unprofitable for exporters to ship rubber in excess of the quotas established under the agreement. In Indonesia, for a part of the control period, export taxes were the only mechanism used to control shipments of native rubber. The rubber regulation agreement is no longer in existence.

In contrast to the prewar taxes, export taxes now in effect in Malaya and Indonesia are for revenue only. A portion of the Malayan tax is used to promote research to improve production techniques of the Malayan rubber industry. In general, the tax is levied on an official valuation for rubber. This official valuation is changed periodically—weekly in the case of Malaya. In Malaya the same tax rate applies irrespective of quantity or price; in Indonesia the rate increases as the price of rubber increases. For both countries the tax applies to exports to all destinations.

Senator MILLIKIN. Article V of GATT deals with freedom of transit. Is that identical with article 33 of ITO?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Yesterday, in connection with other articles, we were discussing the derivation of these various provisions. Can you tell me what the derivation of article V is?

Mr. BROWN. There was a similar provision in our trade agreement with Mexico, Senator.

Senator MILLIKIN. Entirely similar, or just touching the same subject matter?

Mr. BROWN. The same subject matter, but not identical in language.

Senator MILLIKIN. Is the philosophy expanded any?

Mr. BROWN. No, sir; the philosophy is simply that there should be a free flow of goods that are going through a country, and that the country should not interfere with the transit trade of other nations by unreasonable restrictions. The philosophy and purpose are identical.

Senator MILLIKIN. As to the content of the article, is there any precedent for it other than the Mexican treaty?

Mr. BROWN. I don't know whether it appears in any of our commerical treaties or not.

I am told that it does.

Senator MILLIKIN. By commercial treaties, you mean what?

Mr. BROWN. Treaties of friendship, commerce, and navigation.

Senator MILLIKIN. The regular treaties?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Is there anything in the act of 1930 about it?

Mr. BROWN. Not in terms; no, sir.

Senator MILLIKIN. So that your authority to agree to an article of that kind arises out of your interpretation of the Reciprocal Trade Agreements Act.

Mr. BROWN. It arises out of our interpretation of the power of the President under the Trade Agreements Act, and his general powers.

Senator MILLIKIN. And his general powers. Have you made any progress in having an analysis made, article by article, as to which articles rest on the Reciprocal Trade Agreements Act and which articles rest on the alleged general powers of the President?

Mr. BROWN. We do not have a finished product; no, sir.

Senator MILLIKIN. You are working at that?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now we come to Article V, Freedom of Transit. [Reading:]

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 transshipment, 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."

I assume that the general purpose of this article is to stop all of the nuisance hindrances to transportation of goods which originate outside of a country, and complete their destination outside of a given country.

Mr. BROWN. That is true, sir.

Senator MILLIKIN. In other words, if a country wanted to, it could establish all sorts of interim inspection procedures and delaying procedures, which would have a very direct effect on what you call the free flow of trade and also might have a very discriminatory effect.

Mr. BROWN. Yes, sir.

If the shortest route between one country and a third country is through a second country, that second country must not require unloading of trucks, or anything like that, and they must not impose any fees or charges as tariffs.

Senator MILLIKIN. Unless there was a prohibition, they could compel you to take the longest possible, most expensive route across the country in one case, and discriminate in favor of some other country

by allowing them to take the shortest and least expensive route, and things of that kind. That is the general purpose or idea of it.

Mr. BROWN. That is right, sir.

Senator BREWSTER. Do I understand that this is calculated to encourage the most direct and economical method of transit?

Mr. BROWN. That is correct, sir.

Senator BREWSTER. And does that operate so that if a country discriminated against it you could take action?

Mr. BROWN. Yes, sir.

Senator BREWSTER. We have a beautiful illustration of that up in our State. Everyone is agreed that the most direct transit for much of the Canadian goods is through the port of Portland. The Canadian Government, by a variety of means, has converted that to a 700-mile journey around the State of Maine to St. John and Halifax.

Now, do I understand that we would have some means of redress under this?

Mr. BROWN. No, sir. This article is directed to the action of the country through whose territory the traffic goes.

Senator BREWSTER. You mean that if a country wants to avoid entirely transit through another, there is nothing you can do about it.

Mr. BROWN. Not under this article, sir.

Senator BREWSTER. Would there be any other means of redress?

Mr. BROWN. I don't think so. Not under this agreement.

Senator MILLIKIN. Would this be a fair illustration: I think there are some instances where we ship through a part of our goods to reach certain Atlantic ports. Canada could not impede our shipments with burdensome inspections along the way. It could not, so far as that kind of a shipment was concerned, which was not destined for Canada, require us to wander all over Canada in getting those goods to the Atlantic shipping port.

Mr. BROWN. That is right, sir. As a matter of fact, we have had already one very long-standing issue with the Canadians, about a truck route that goes through a little piece of Canada, and saves several hundred miles for our shippers in going from one part of the United States to another.

Senator MILLIKIN. Something had been nagging at me in that connection, and I could not recall just what it was. That is it.

Mr. BROWN. That has been almost entirely resolved.

Senator BREWSTER. Detroit, for instance, ships a great deal by the Canadian lines, and we could require that they should not discriminate to the extent of making their hauls to Canadian ports, as against the port of Portland, for instance.

Mr. BROWN. Yes, sir. They would have to allow us to go through by the most convenient route, and with no charges other than, well, a reasonable license fee for the use of a road, an automobile license, that kind of thing. And we must get the same treatment as anyone else.

Senator BREWSTER. But they could not impose any discriminatory treatment in favor of their own ports as against the American port, if the American shipper desired to use that.

Mr. BROWN. As I stated before, this part of the article is not directed at that sort of thing but at the action of the country through whose territory the traffic goes.

Senator MILLIKIN (continues reading):

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.

Have you considered what impact that might have on inspection laws of the States?

Mr. BROWN. This would not change the laws of the States, Senator, as we discussed yesterday. The only provision in this article affecting that is the last section of article 24.

Senator MILLIKIN. Let us have that again, please.

Mr. BROWN. I don't know of any inspection laws in any State which discriminate as between a foreign product and an American product.

Senator MILLIKIN. There might not be that type of discrimination, but some of our States have very rigid test control statutes. They stop automobiles and freight cars, and examine them to see whether there are trees or shrubs, or fruits that might carry some kind of a pest.

Mr. BROWN. No, sir, that would not be in any way affected.

Senator MILLIKIN. The States could continue to do that?

Mr. BROWN. And the Federal Government if it wanted to.

Senator MILLIKIN. That, of course, could be exaggerated, and result in quite a problem, as it has in our purely internal affairs here.

Mr. BROWN. I think that in any case where a law or regulation which is otherwise legitimate is abused and does work difficulty, there would be an occasion for protest.

Senator MILLIKIN. But so far as the Federal Government's relation to the States is concerned, the most that could be done is, I think, what you suggested yesterday, the matter of bringing it to the attention of the State.

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. And asking that they do something about it?

Mr. BROWN. Yes.

Senator MILLIKIN. But it would be within the State's hands whether it did anything about it. Right?

Mr. BROWN. Yes, sir. We have made suggestions before which have not been acted on.

Senator MILLIKIN. We might, for example, have a trainload of cattle moving from Mexico to Canada. We are very apprehensive about foor-and-mouth disease coming into this country. Well, I can vision that there might be 25 inspections of those cattle through State inspection agencies before they got through the country. But that would not be prohibited, unless it were done with deliberate intent of impeding that shipment.

Mr. BROWN. That is correct.

Senator MILLIKIN. Without reference to the alleged purpose.

Mr. BROWN. That is correct, sir.

Senator BREWSTER. But would this apply also to the question of good faith of the administration as to quarantine regulations, even by one of the signatory powers? This does not involve the States, now. This is the good faith of such administration.

Mr. BROWN. Well, that is always open to challenge, if the thing is abused. Senator This wouldn't change it in one way or another.

Senator BREWSTER. We had a very clear case of that some years ago, which I took up with the head of the State Department, when the British Government, at the time of an Irish famine, found that Maine potatoes were infected with a Colorado beetle, which I discovered was merely a potato bug; and across the imaginary line in New Brunswick the potato bugs did not know the difference But they allowed the New Brunswick potatoes to go into Ireland freely; which was an obvious subterfuge which we protested bitterly.

I think that situation arises from time to time. I think our own prohibition on Argentine meat has been challenged on similar grounds.

Mr. BROWN. There have been some complaints; yes, sir.

Senator BREWSTER. There was some query as to whether that was entirely justified. Those are all matters which are a proper subject of diplomatic inquiry.

Mr. BROWN. Yes, sir.

The question of whether or not a regulation is being applied for a purpose that is recognized as legitimate, or whether it is being abused, is also something which would be the subject of representation.

I may add that there is also in article XX an exception for the inspection and sanitary laws which you referred to.

Senator MILLIKIN (continues reading):

3. Any contracting party may require that traffic in transit through its territory be entered at the proper customhouse, 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.

Does that deal with charges of government, or would that deal with charges of the carriers?

Mr. BROWN. That would be the charges of government.

Senator MILLIKIN (continues reading):

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 favorable 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 favorable 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 of entry of the goods at preferential rates of duty or has relation to the contracting party's prescribed method of valuation for duty purposes.

Would you mind illuminating that paragraph for us, particularly that last part? I do not vision what is intended.

Mr. BROWN. Some of the countries which have preferential systems, have, as part of that system, a requirement that in order to get the preferential duty rate, goods must come directly into the ports of their country rather than coming into another country. I think that is what Senator Brewster had in mind in the point he was raising.

As you know, we were not able, in this negotiation, to get an elimination of all aspects of the existing preferential systems, and that was one of them that we were not able to eliminate.

Now, one could not, however, under this article, increase the stringency of those regulations or add new requirements to those existing on the date of the agreement.

Senator MILLIKIN. Is this paragraph limited to the state of preference as of any given date?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. It says, "existing on the date of this agreement." Yes. [Continues reading:]

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).

What are our powers of control over foreign aircraft leaving a foreign country, passing over this country, to go to another foreign country, so far as this particular agreement is concerned?

Mr. BROWN. None whatever. This is specifically to make clear that this agreement does not enter into the field of regulation of aircraft transit. But it does mean that if an airplane comes in carrying goods or baggage and sets down at an airport in this country, or, putting it another way, sets down in an airport in Canada, they couldn't come in and take all the baggage out and put a lot of inspections and special difficulties in the way, but must give it the same through flow that is required for other types of goods.

Senator MILLIKIN. But aircraft in transit might carry some health hazard, and I suppose that would come under the general provisions.

Mr. BROWN. Those would come under the exception, yes, sir.

Senator BREWSTER. This does not give them any additional rights, independent of whatever aviation agreements we might have.

Mr. BROWN. No, sir. The purpose of this article is to make it perfectly clear that this does not get into the field of aviation.

Senator MILLIKIN. What does the interpretative paragraph reach?

Mr. BROWN. That just says that in determining equal treatment you take the same kind of goods under the same kind of conditions.

Senator BREWSTER. If I understood you, then, under that other one, any preferential restrictions they had at this time would be continued to divert the flow from what we might consider were normal channels.

Mr. BROWN. Yes, sir. And in some cases those diversions do exist, and they could be continued. We got some considerable amelioration of the preferential system, but not all of it, of course.

Senator BREWSTER. That has a very adverse influence on some of our port situations.

Mr. BROWN. I know it does.

Senator BREWSTER. Does that exist in other parts of the country, outside of New England?

Mr. BROWN. I think that is the most important, Senator.

Senator MILLIKIN. Article VI is next, on antidumping and countervailing duties.

Is this article similar to article XXXIV?

Mr. BROWN. Yes, Senator.

Senator MILLIKIN. Is it identical with the minor exceptions that you discussed?

Mr. BROWN. Yes, it is.

Senator MILLIKIN. I neglected to ask you: Is there anything in article V which, under your viewpoint requires further attention by Congress?

Mr. BROWN. No, sir.

Senator MILLIKIN. What is the derivation of article VI?

Mr. BROWN. The purpose of this provision, of course, is to enable the parties to take steps to protect themselves against dumping by others, in accordance with the principle in our antidumping laws, and countervailing duty laws.

Senator MILLIKIN. Yes, I understand the purpose, but I mean: What is the derivation of it? Is this a new invention?

Mr. BROWN. This article has not appeared in our previous trade agreements.

Senator MILLIKIN. It has not appeared in your previous trade agreements?

Mr. BROWN. No, sir.

Senator MILLIKIN. Did it appear in the act of 1930?

Mr. BROWN. I think there is something about it in the act.

No, sir. Not in section 350.

Senator MILLIKIN. When I refer to the act of 1930, I refer to the whole act.

Mr. BROWN. Oh, the whole tariff act.

Senator MILLIKIN. Yes.

Mr. BROWN. Frankly, Senator, I don't know whether the antidumping provisions appear in the act of 1930 or in other legislation.

Senator MILLIKIN. I think they do, but I think they are somewhat different from what you have here. Has the subject matter appeared in our treaties and conventions?

Mr. BROWN. I am advised that some of our trade agreements have incorporated provisions dealing with consultation on the subject of dumping. But nothing as complete as this has appeared in them.

Senator MILLIKIN. Does the general subject matter appear in any of our conventions or treaties?

Mr. BROWN. I don't think so, Senator.

Senator MILLIKIN (continues reading):

1. The contracting parties recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in the territory of a contracting party, or materially retards the establishment of a domestic industry. For the purposes of this article, a product is to be considered as being introduced into the commerce of an importing country at less than its normal value, if 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.

What effect does this have on our agricultural aids and subsidies?

Mr. BROWN. This follows largely the provisions of our antidumping law, Senator.

Senator MILLIKIN. Well, those laws are intended to protect us.

Mr. BROWN. Yes.

Senator MILLIKIN. This is intended to protect everyone.

Mr. BROWN. Other countries have similar laws.

Senator MILLIKIN. So what is the effect on our agriculture? Take any of our minimum-support price programs. Assuming that under the operation of our agricultural-aid programs great unmanageable surpluses of agricultural commodities resulted, we would be confronted with the necessity of getting rid of those unmanageable surpluses. And if we got rid of them, we might have to dump. Now, is that intended to restrain us from dumping, under those circumstances?

Mr. BROWN. No, sir. But it would permit another country to impose a countervailing duty if the effect of our export subsidy was to threaten or cause material injury to them, precisely as we have legislation that we can do that if their dumping or export subsidy were to threaten material injury to us.

Senator MILLIKIN. That goes to the remedy rather than the substantive prohibition.

Mr. BROWN. Yes, sir. There is no prohibition on the action. This deals entirely with the remedy.

Senator MILLIKIN. Well, we condemn it. We say that the practice is to be condemned. And something which is condemned, I assume, is prohibited, or at least if it is not a direct technical prohibition, it certainly is a moral prohibition.

Mr. BROWN. Yes, sir. But I think this country would wish to join in a condemnation of action which gives material injury to another country.

Senator WILLIAMS. Have we had any experience with that as to any of our activities?

Mr. BROWN. No, sir.

Senator WILLIAMS. No objections have been filed?

Mr. BROWN. No.

Senator MILLIKIN. It is very clear to me that under the operation of our agricultural aid programs, in practice, and especially under many proposals that have been advanced, we may be developing unmanageable surpluses, and we might have to get rid of them at the price that we could obtain. I suppose that would be dumping. If we were wise, we of course would anticipate the retaliatory measures that would be taken; but nevertheless we might want to dump.

I am wondering whether we want to tie our hands by a preliminary condemnation by ourselves of what we might want to do.

Mr. BROWN. Sir, may I have your permission to ask you a question in return?

Senator MILLIKIN. Certainly.

Mr. BROWN. Would we not wish to be in a position where we could impose a countervailing duty on a subsidized export to us of an agricultural product from abroad, where they had a surplus?

Senator MILLIKIN. We certainly would.

Mr. BROWN. If it caused us or threatened us injury?

Senator MILLIKIN. We certainly would. And I am heartily in favor of that kind of a measure, and I am heartily in favor of giving the other fellow retaliatory remedies against us. But what I am talking about is not the retaliation. I am talking about the substantive condemnation of the practice, which might prohibit us from doing something which we would want to do, and would be willing at the same time to take the costs.

Senator BREWSTER. Does that affect a thing like the subsidy on our farm products, such as potatoes, or cotton?

Mr. BROWN. If we pay an export subsidy and the result is that it has the effect of damaging some other country, they would be in the position, as they are now—this gives no added right—to impose a countervailing duty. The provisions of this article, when you get all through with them, actually limit the use of these countervailing duties, and antidumping duties in a way that they are not limited before, by confining them to meeting the direct situation which they are supposed to affect, and not permitting them to be used on flimsy pretexts and as a general abuse.

Senator BREWSTER. You spoke of an export subsidy. Is it confined to that? Suppose you paid for production generally; I mean, paid the domestic producer a general subsidy. Would that be within the purview of this, without relation to whether it was exported or consumed domestically?

Mr. BROWN. No, sir. I don't think it would ordinarily give rise to the use of countervailing duties.

Senator BREWSTER. That would not be within the purview of this?

Mr. BROWN. I don't think so; however, if the general subsidy can be measured and exportation of the product causes injury in another country, the latter could impose a countervailing duty.

Senator WILLIAMS. How about the transaction which we had with the Argentine last year, in which we sold them a few bags of potatoes at 50 percent dlscount below the price at which they were sold in this country.

Mr. BROWN. The Argentinans agreed to that.

Senator WILLIAMS. But, as I say, it was subject to being condemned. They were through private exporters. I do not know whether Argentina agreed or not That is what I am asking. They were sold through exporters in New York and exported in the Argentine.

Mr. BROWN. I am not familiar with the transaction, Senator, but I don't think so.

Senator BREWSTER. Suppose an Argentine producer had persuaded his government to object. Would they have been in a position to do so under the operation of our potato program?

Mr. BROWN. No, this is the question of the Government subsidizing or dumping its products. In the case that Senator Williams spoke of, I think it was simply that the private citizen in this country agreed to accept a lesser price for his product.

Senator WILLIAMS. No, you are wrong.

Mr. BROWN. Then, as I told you, I was not familiar with the transaction.

Senator WILLIAMS. In this instance, the Commodity Credit Corporation under the support program purchased the potatoes at the normal support price. The Commodity Credit Corporation in turn sold them to exporters in New York at about a 50 percent discount, to be sold in the Argentine. And they were exported, if I remember correctly, about 3,000,000 bags of them at about 50 percent of the price at which they had been supported in this country, and lower than the prevailing price in New York City at the time they were shipped.

Mr. BROWN. This article, Senator, would not prevent the Government from doing that. Nor would it prevent our private exporters from doing it. What it would do would be to permit the Argentine Government, if it wished, to impose a countervailing duty on that shipment of potatoes, to the extent of the difference in price

Senator WILLIAMS. In other words, Argentina, if they saw fit, could condemn it under this section.

Mr. BROWN. If it threatened or caused material injury to an industry there. Now, I take it that the probabilities are that there wasn't any showing of injury at all.

Senator BREWSTER. No; in that case they were very anxious to have the potatoes, because they were short.

Mr. BROWN. Therefore, there would be no protest.

Senator BREWSTER. Now take your cotton case. The Government has 10 or 12 million bales of cotton, is it, that they have bought up?

Mr. BROWN. A rather large quantity.

Senator BREWSTER. If they should start to sell that abroad at reduced prices, would that then be subject to possible objection by the importing country?

Mr. BROWN. If it causes injury to the other country, it would be. And, of course, there have been protests in the past by countries when we have done just that.

Senator BREWSTER. They are closing the Liverpool cotton market, so that all purchasing is done by the Government there. It gives them complete control as to imports into that country; does it not?

Mr. BROWN. Yes. All imports into Britain are controlled.

Senator BREWSTER. Controlled by their Government. But if any of the cotton-producing countries found their domestic situation adversely affected by sales of American cotton in their countries, they could impose a countervailing duty.

Mr. BROWN. Yes, sir. They can now.

Senator WILLIAMS. What effect would this have had on the international wheat agreement? Let us suppose it had been adopted last year. What effect would it have had on that agreement which authorized sale of wheat at a price lower than the prevailing price in this country?

Mr. BROWN. No effect. There is a specific exception that where there is an intergovernmental commodity agreement, that controls over this agreement.

Senator WILLIAMS. Even though the signers of the international wheat agreement would have been a different group of countries than the ones who signed this treaty?

Mr. BROWN. Yes. But you see, the people who got the wheat at a lower price under the wheat agreement would be people who had contracted to do so, and wanted to do so, and considered that it would benefit them rather than injure them.

Therefore there would be no occasion for this to come into effect at all, because this is only designed for the case where a subsidy or dumping activity causes injury to an established industry in the other country.

Senator WILLIAMS. For instance, if Australia did not participate in that international wheat agreement, and was participating in this agreement, they could not object to any action of this kind.

Mr. BROWN. No, only with respect to action which we took as to wheat going to Australia.

Senator MILLIKIN (reading):

2. In order to offset or prevent dumping, a contracting party may levy on any dumped product an antidumping duty not greater in amount than the margin of dumping in respect of such product. For the purposes of this article, the margin of dumping is the price difference determined in accordance with the provisions of paragraph 1.

3. 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 export of any merchandise.

4. No product of the territory of any contracting party imported into the territory of any other contracting party shall be subject to antidumping 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.

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

6. No contracting party shall levy any antidumping 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 retard materially 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 antidumping 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.

7. 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 result at times in the sale of the commodity for export at a price lower than the comparable price charged for the like commodity to buyers in the domestic market shall be presumed not to result in material injury within the meaning of paragraph 6, if it is determined by consultation among the contracting parties substantially interested in the commodity concerned that:

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

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

I am very curious, Mr. Brown, in the matter of enforcement as to how we can work in reference to state trading countries. Is there not a subsidy and a bounty in almost all of those products of state trading countries, or state monopoly countries?

Mr. BROWN. There is no question, Senator, but that the enforcement of any of these provisions with respect to the operation of the state enterprise is a very difficult thing, largely because you don't have the objective criteria for finding out exactly what is going on that you do in the case of transactions carried on by private units.

Senator MILLIKIN. It seems to me it is almost impossible.

Mr. BROWN. And I am quite prepared to admit, as we always have, that the state trading provisions of this agreement are by no means

as effective as we would like to see them. They are, however, the best that it has been possible to arrive at, after a very considerable amount of thought by a great many people. We regard them as being a beginning, as affording an opportunity for protest, where a question arises, affording an opportunity for protest and investigation; and for providing an opportunity for the development of practical studies and a sort of a case law on the subject.

It is a beginning, Senator. That is all that can be claimed for it.

Senator MILLIKIN. As a practical matter, it certainly would be most difficult to measure quantitatively or qualitatively the amount of subsidy in any product exported from a state trading country, would it not?

Mr. BROWN. Well, I am not sure, Senator. There are certain objective criteria. You know the price paid to the producers and the world market prices. You know the cost of transportation, roughly, and you know the amount which is being disposed of. So that there are objective criteria which could lead you to a pretty good conclusion in a good many cases.

Senator MILLIKIN. Well, take the case of Great Britain. How do you measure the amount of subsidy that goes into the pay envelope of the British worker?

Mr. BROWN. Are you directing your question, Senator, at the matter of whether there is an element of subsidy in the export of industrial goods from Britain?

Senator MILLIKIN. Well, practically speaking, I am thinking of British exports. I am thinking of British exports in terms of the labor cost involved in those exports; and with reference to those labor costs, I am thinking of the amount of governmental subsidy that is reflected in the wage earner's pay envelope.

Mr. BROWN. You have chosen an extraordinarily difficult example. But this agreement does not change that fact. There it is, and we are facing that in the administration of our present laws. To the extent that the problem exists, it is just as difficult, in many cases, to find out, in the practical administration of the law, what a margin of dumping might be in the case of a private concern, as it might be in the case of a governmental concern.

But assuming that these provisions may not deal effectively with every situation that arises, they do, nevertheless, we believe, find an effective way of dealing with most of the situations which will arise.

Senator MILLIKIN. Take the exports of Russia, where they do not have a capitalistic system. How can you measure the amount of governmental help that goes into a product from Russia?

Mr. BROWN. I wouldn't know how to begin, sir.

Senator MILLIKIN. Does it not follow that as this growth toward state socialism and state controls of all kinds continues, this provision will grow more and more unrealistic?

Mr. BROWN. I am sorry, Senator. Were you asking me a question?

Senator MILLIKIN. Yes. I say: Does it not follow that as state socialism continues to grow over the world, provisions of this kind will become more and more unrealistic?

Mr. BROWN. One of the purposes of this agreement is to maintain to the fullest possible extent the conditions under which the private enterprise system can develop and flourish. And this is part of the effort to accomplish that.

Now, if the trend goes completely the other way, even then I would not quite be willing to admit now that your point is well taken. Because if this growth of nationalization and socialization continues, then I am confident that the ingenuity of the men who have to deal with that kind of a system will also grow, and will find ways of strengthening and improving this kind of a provision.

Senator MILLIKIN. Well, I would hope so, too, but I suggest that your hope is entirely unanchored.

Mr. BROWN. Many hopes which have been successful have been, Senator.

Senator MILLIKIN. Now tell me: How has this agreement, or how has the reciprocal-trade system, prevented the growth of these things that we are talking about?

Mr. BROWN. It hasn't prevented them, and it couldn't. It couldn't be expected to. The forces which have been at work are much too great and much too fundamental, and have been operating over a much wider area than just this area of trade barriers. We feel that this is one of the ways in which we can work effectively, as I said, to bring about the conditions under which the private-enterprise system can best develop and carry on trade with State enterprises, where such exist, on equal terms. The wider area of agreement you can get for movement in that direction, the better. And there is no guarantee, sir, that this will accomplish it.

Senator MILLIKIN. Beyond guarantee, I suggest there is no evidence that it has checked the trend toward what you and I consider to be an undesirable thing. On the contrary, in the case of all of our foreign policy, the direction has been the other way, has it not?

Mr. BROWN. Yes, I think that by and large that is correct.

Senator MILLIKIN. Would you say it is a part of this country's foreign policy to check as well as it can the further growth of this nationalistic and socialistic trend?

Mr. BROWN. No, sir; I would prefer to put it the other way. It is our purpose to do everything that we possibly can to develop in the world the kind of conditions and methods of trading which will give the private enterprise system in which we believe—although we do not always follow it—the maximum oppurtunity to operate. We do not condemn the use of state trading by other countries. That is their decision, just as it is our decision to operate as we do. But we try to work out, to the best possible extent, conditions under which our private citizens can trade on as nearly as possible equal terms and under the same rules as the enterprises of other countries. There they are; they exist; we must work with them. And so these rules that appear here and elsewhere are an effort to develop a modus vivendi which will give a maximum opportunity to our private enterprise operation. And, as I say, I am quite prepared to admit that they are by no means as effective as we would like to see them.

Senator MILLIKIN. Now, the basic concept of our reciprocal trade system is to knock down the hurdles to trade between the individual private traders of the world? Is that not the basic conception?

Mr. BROWN. Between the countries of the world.

Senator MILLIKIN. I think, Mr. Brown, you are whittling away, in that answer, a lot of representations that have been made here by other witnesses from the State Department.

Mr. BROWN. We cannot ignore the fact that state trading exists.

Senator MILLIKIN. I am not talking about what the fact is. I am talking about what the aim of the system was: to make freer the trade between private traders over the world.

Mr. BROWN. I have never seen it stated specifically in that way, Senator. I must not have been here at the time.

Senator MILLIKIN. I think I can find you many, many statements of that kind. I am not completely clear on it, but I think Mr. Clayton has reiterated that again and again.

Mr. BROWN. Oh, Mr. Clayton has reiterated again and again what I stated a few moments ago, that it is our objective now to do everything we can to develop the conditions under which the private-enterprise system can have its best chance to operate.

Now, when you get through with these exceptions that you have carved out here, what is really left of this article?

Mr. BROWN. Which exceptions, Senator?

Senator MILLIKIN. Well, in paragraph 7, for example, you say [reading]:

> 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 commodity for export at a price lower than the comparable price charged for the like commodity to buyers in the domestic market, shall be presumed not to result in material injury within the meaning of paragraph 6, if it is determined by consultation among the contracting parties substantially interested in the commodity concerned that:
>
> (a) the system has also resulted in the sale of the commodity for export at a price higher than the comparable price charged for the like commodity to buyers in the domestic market, and
>
> (b) 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.

Mr. BROWN. I would say you had about 97 percent of the trade of the world left, applicable to this article. That is designed to meet a rather narrow case where, as part of a price stabilization scheme, the Government pays the farmer a definite price for his product, whatever the world price may be. If the world price is below the farmer's price, the Government sells at the world price, and if it is above, it also sells at the world price.

Senator MILLIKIN. I notice that the contracting parties have an important role there in determining whether an exception has been met.

Mr. BROWN. Yes, sir. Just as the two parties would have if they had to consult about the operation of a bilateral agreement.

Senator MILLIKIN. Well, I suggest, it is somewhat different. If you have a bilateral agreement, each of the parties with respect to that bilateral agreement may take unilateral action. That may invoke retaliation. But there is no body superimposed over that bilateral agreement which determines how it shall be interpreted. Each party reserves the right to interpret the agreement and to adhere to it in the manner which it thinks is proper, and to denounce it, or to do as it pleases, assuming that it is willing to take the pains and penalties.

Mr. BROWN. Yes, which is exactly the situation here.

Senator MILLIKIN. But here we have a dispute with X country over a bounty or a subsidy. The dispute is not resolved between

this country and X country. It is thrown into the lap of all of the contracting parties. Is that not right?

Mr. BROWN. No. I would think the normal procedure would be to consult with the X country. And if you get agreement with them, that settles it.

Senator MILLIKIN. Oh, yes; I would say that that would be the normal procedure. But if you do not have that agreement, I think as far as exceptions are concerned, it very clearly is a question for decision by the contracting parties.

Mr. BROWN. That is right. And if you do not like it, just as is the case as if you do not agree with the other parties to a bilateral agreement, then you can denounce the agreement if you want to.

Senator MILLIKIN. Yes; but you can denounce a bilateral agreement with limited repercussions; however, when you denounce this agreement you are making yourself an exile, possibly, from world trade. Is that not a point of distinction?

Mr. BROWN. That is a point of difference. Yes, sir.

Senator MILLIKIN. Well, what you have done here, as you have done all through this agreement, where decisions are put up to the contracting parties: you are submitting what under a bilateral agreement would be limited to the repercussions that might occur from the actions of the parties to the bilateral agreement, while in this case you do not limit those repercussions, but you generalize them. And you put decision into the hands of nations that may not be directly interested and may have only a mild interest in the controversy.

Mr. BROWN. The chances of a favorable decision are just as good as the chances of an unfavorable one.

Senator MILLIKIN. Yes; but you have lost, unless you wish to be excommunicated, or make an exile of yourself in world trade, your own control over the situation. Is that not correct?

Mr. BROWN. There is no question whatever that, when you enter into a multilateral agreement, the consequences of entering into it, or withdrawing from it are broader and more important than would be the case in a bilateral agreement. I would agree with that.

Senator MILLIKIN. Well, would you say that is an affirmative answer to my question to you?

Mr. BROWN. Yes, sir; I think so.

Senator MILLIKIN. Does not this whole article illustrate again not only what we have just been talking about, but the penetration of this whole agreement into what formerly were regarded as our domestic concerns?

Mr. BROWN. No, sir; I would disagree with that completely.

Senator MILLIKIN. Would you mind making that disagreement a little clearer?

Mr. BROWN. Yes, sir.

This article sets forth a very simple principle. It is a principle that we have embodied in our laws, and a principle that we would want to follow. And that is that you don't dump products in a way to hurt some other country; that if you do it, the other country has a right to put up a countervailing duty, or antidumping duty—it sets forth certain standards for determining that, which are the same standards which we have in our law, with one exception, which I will mention when we come to it—and that you do not abuse that method by

ostensibly putting an antidumping duty on, but really making it very much bigger and higher than is necessary to meet the situation.

I don't think that is an invasion of domestic affairs. That is an agreement that a country can quite properly make and would like to make.

Senator MILLIKIN. Does it not enlarge the field of interest of each contracting party in the domestic practices of the other contracting parties?

Mr. BROWN. No, sir. Because in any case, under the present situation, any country is free to come to us or to any other country which is imposing a countervailing duty which they don't think is justified, and to express an interest in it, and to ask that it be modified. We have that right now with respect to other countries. They have it with respect to us. This is simply recognizing that fact.

Senator MILLIKIN. I do not think that is quite responsive to what I was putting to you.

Mr. BROWN. I am sorry. Then I didn't understand you.

Senator MILLIKIN. Here we have a situation where, as I say, the bilateral approach would be limited to two parties. Here, under the multilateral approach, the way the United States handles itself, so far as bounties and exports are concerned, can be limited; but it does not have to be limited, and if it is not limited, then the whole membership, all of the contracting parties subscribing to this agreement, then become interested in the situation in the United States of America—with respect to a problem which it primarily has with X foreign country.

Mr. BROWN. That is conceivable.

Senator MILLIKIN. That is entirely correct, and I suggest that it is incontrovertible. And if that is not the point of this agreement, in this and in other matters, you have muffed your objective.

Mr. BROWN. But it also works the other way, Senator. That is the thing in this discussion so far, that I don't think I have brought out enough. And that is that this process of having an agreement which you can use as a basis of protest against something which is adverse to your interests, where you can bring the matter for discussion before several other countries as well as the one that you are complaining about, is something which also works to the benefit of the United States, and has done so.

Senator MILLIKIN. Well, I do not say that no good result can possibly follow.

Mr. BROWN. Thank you, Senator.

Senator MILLIKIN. And I do not say that bad results cannot follow.

I am simply making the point that we have enlarged the scope of interest in our affairs—and that goes as to every other country—to a very substantial group of nations, and that that is somewhat of a new conception. In fact, I think it follows from this provision and from the whole agreement that we are now setting up some rights as distinguished from interests. We are now setting up a whole new group of rights, which the countries who are members to this agreement have in each other's affairs, which did not exist prior to that time. Is that not right?

Mr. BROWN. Yes; I think that is correct. What the extent of the rights is, and what the effect and the conclusions you draw from them are, of course, is a matter of judgment.

Senator MILLIKIN. Well, the agreement is the primary source for defining those rights, and the exact interest in those rights of the other countries. But the end point, and I assume we are in agreement on that, is that we have vastly expanded by this agreement the conception of rights of other countries in what formerly might have been considered the purely domestic affairs of the countries involved. Is that not correct?

Mr. BROWN. Senator, that is involved in any international agreement. It is involved in the concept of the United Nations. It is involved in the concept of the Monetary Fund. It is involved in the concept of the food and agriculture organization.

The world is getting very much closer together, and the things that one country does has repercussions on the affairs of other countries. They cannot help doing so. And the concept of this agreement is that it is better that there should be consultation with the affected parties, and that there should be agreement on principles under which they will work together, than if there shouldn't be.

Senator MILLIKIN. And from what you have said, it follows that you have considered it desirable to expand the rights of countries into the affairs of other countries.

Mr. BROWN. No, sir. I don't think this is "into the affairs," because there is nothing in this agreement which gives anyone the authority to tell us what we should do, or order us to do what we do not want to do.

Senator MILLIKIN. Well, Mr. Brown, when we toss into the laps of the contracting parties, many of whom may have no interest whatever in the immediate controversy, something of this kind, we are certainly expanding the right of other nations to concern themselves with matters which formerly could have been considered between the two countries, and which formerly could have been considered as being within our own decision as to what we wanted to do about it.

Is that not correct?

Mr. BROWN. Your statement is literally correct; yes, sir.

The CHAIRMAN. May I interpose? That necessarily follows, if you are going to introduce the reciprocal principle in tariff making or modification, does it not?

Mr. BROWN. Yes, sir.

The CHAIRMAN. You will find in the Tariff Act, the last general act, the 1930 act, all these questions of unfair discrimination against trade, antidumping provisions; you will find this whole question of transportation from port to port, and reloading, and all of it is looking primarily to the elimination of these burdensome features on commerce that we, as a matter of general policy, are trying to rid ourselves of, whether the tariff be strictly a domestic and congressional matter, or whether you introduce a reciprocal principle in negotiating for tariff changes or modifications.

I think the point might well be conceded, Senator Millikin, that inevitably if the reciprocal principle is applied, you have to set up as far as you can procedure for the accomplishment of your general objective.

Senator MILLIKIN. Mr. Chairman, I do not believe that I am in disagreement with what you have said. My point, I think, goes basically to this: that, first, what appears in the act of 1930 was under

our unilateral control. And I think that is recognized in the chairman's statement.

The CHAIRMAN. Oh, yes. Entirely so.

Senator MILLIKIN. Then the chairman proceeded from that point to say that, if you are going to get into these reciprocal trades, you have got to remove it from the field of unilateral decision, and put it into the field of decision by the parties to the agreement.

My basic point, I believe, is that there we have something which formerly, under the law, was under the control of Congress, which formerly under the law we could determine ourselves, taking the pains and penalties of our action. But here, without bringing anything back to Congress for approval or disapproval, a group of gentlemen from the State Department have sat around a table at Geneva, and have made enormous expansions which have the force of law in our tariff system, based on the alleged authority given them to do so by the Reciprocal Trade Agreements Act, and some undefined general powers of the President.

I suggest, Mr. Chairman, that the imposition of law or of agreements—which under good morals should have the force of law in this country—made in that way, for the American people, is a rather revolutionary thing. I do not know whether we have the power to delegate that much lawmaking authority to any executive agency or any department.

The CHAIRMAN. The point I wish to make, Senator Millikin, is this: that in all our tariff acts, culminating in the last general act that we have, the act of 1930, there is a clear condemnation of these trade practices which we have regarded as inimical to commerce and trade, and a clear recognition that such things as dumping, such things as subsidy payments, either for the production of a competing article, on our dutiable list, or for the transportation of such article, justify us in imposing counterrestrictions, justify us in imposing additional duties, and justify us, in certain extreme cases where the offense is being repeated by the nation against whom countervailing duties have been raised, in action excluding commerce, that particular commerce.

The point I wish to make is that in 1934, when we again made an effort to bring in the reciprocal theory in tariff making or revision, based of course upon the general tariff policies as set forth in the tariff act, we necessarily had to go as far as we could in the setting up of procedural machinery which would look toward the elimination of those trade restrictions and practices which we had deemed to be inimical to general trade.

Now, I do not mean to say that in all instances and in every particular the agreements actually made were, maybe, justified. But I am speaking only of how, if it is desirable to proceed beyond the old and basic concept of tariff making in this country, which confined it of course purely to a domestic act and reserved to us expressly the authority to say when these unfair trade practices would justify counteraction upon our part, when we moved beyond that at all, and said that with respect to international trade we were to inject the reciprocal principle—let us say "principle," so as to avoid the details; there might be much difference of opinion and view—then, certainly, we were justified in setting up, let us say, proper and defensible procedural arrangements under which we could actually accomplish the tariff making, jointly, by the Congress, in the first instance, and modifica-

tions and removals of unwholesome and unhealthy restrictions upon trade and commerce, by some sort of reciprocal procedure.

That is all I was saying. That is not to say that I would want to go into details and justify everything that we have attempted to do, or everything, perhaps, that some of the agreements may do, as to each rate that has been imposed, lowered, raised, or modified. But certainly the concept of a reciprocal treatment of the tariff would justify, it seems to me, and make necessary, a course of procedure, the establishment of some general rules, at least, which might guide us and all parties that come into the arrangement with us.

Senator MILLIKIN. Mr. Chairman, I doubt whether I can take any serious difference with almost anything that you have said.

My point is that we should not countenance, I respectfully suggest, the procedures which are necessary to make reciprocal trade effective, when they involve an expansion of rights in other countries having to do with the handling, internally, of our affairs. I do not believe those procedures are a legitimate guise for expanding such rights, when they touch upon subjects, Senator, which, I think, constitutionally and traditionally have been within the powers of Congress to determine.

The CHAIRMAN. I would not assert that. I would not assert that at all. But I am just calling attention to a fact that I do think both sides of this issue sometimes overlook, and that is that first of all you have a congressional tariff. And you have a great many things in that tariff besides tariff duties. You have a recognition of unfair practices, of hampering restrictions on trade and commerce. Then, subsequently you seek to expand our commerce, and with recognition of the protection that must be given our industries, through the application of a reciprocal arrangement. And that, of course, calls for the establishment of some procedure through which and under which you can carry on negotiations looking to the modifications of tariffs.

Senator MILLIKIN. I agree entirely with that, Mr. Chairman. My point goes to the proposition that the procedure here has been converted into the establishment of a new code of substantive international law.

The CHAIRMAN. Or, as I understand it, at least has increased the parties to the agreement.

Senator MILLIKIN. Increased the parties, and granted rights to parties who have not had rights, under prior conceptions, which rights go beyond mere matters of procedure.

Mr. Brown, have you any comment on the interpretations that go with that section?

Mr. BROWN. I don't think so, sir. I think they are self-explanatory; unless you have a particular question.

Senator MILLIKIN. I notice a note 2, here. [Reading:]

> Multiple currency practices can in certain circumstances constitute a subsidy to exports which may be met by countervailing duties under paragraph 3, 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 2. By "multiple currency practices" is meant practices by governments or sanctioned by governments.

Am I correct that under that interpretation the value of the money will be determined by the Monetary Fund?

Mr. BROWN. I don't think so, necessarily, sir.

Senator MILLIKIN. Would you mind elaborating on that a little bit?

Mr. BROWN. I am afraid I can't comment, Senator, because I just don't follow you. All this is intending to say is that if a government establishes multiple exchange rates, by whatever means, they can be so manipulated in such a way as to result in a dumping effect; and that therefore the remedies of the antidumping duty would be available to meet it regardless of how it is fixed.

Senator MILLIKIN. But if those multiple-currency practices had been sanctioned by the International Monetary Fund, would they be legitimate?

Mr. BROWN. I just don't know, sir. It might conceivably be that if you had a multiple-currency rate which had been declared to the fund, it could have the effect of dumping or not. I am not enough of an expert in the financial effect to say. All this says is that if you do have the effect of dumping, you have the remedy.

Senator MILLIKIN. You have to have some kind of a measuring stick. And in our discussion of the subject yesterday, I got the impression that we find this measuring stick in the parities and other privileges extended by the Monetary Fund.

Mr. BROWN. Senator, you might have some members of this agreement who were not members of the fund.

Senator MILLIKIN. I think that there is a pretty broad provision in here to the effect that those who join this agreement must either join the Monetary Fund or agree to abide by the parities found by the Monetary Fund. Is that not correct?

Mr. BROWN. No, sir. They have to join the fund, or they have to have a special exchange agreement with the other parties which deal with those subjects.

Senator MILLIKIN. I accept that correction.

Mr. BROWN. But all this says is that if a government establishes a multiple-exchange rate and uses it in such a way as to effect a dumping operation to the injury of some other country, then they can use the countervailing duty remedy to protect themselves against it. That is all that this note says.

Senator MILLIKIN. It says "multiple currency practices."

Mr. BROWN. That is to avoid the reference to black market.

Senator MILLIKIN (reading):

> Multiple currency practices can in certain circumstances constitute a subsidy to exports which may be net by countervailing duties under paragraph 3 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 2.

Then it says:

> By "multiple currency practices" is meant practices by Governments or sanctioned by Governments.

And I am trying to relate that into the Monetary Fund and the actions of the Monetary Fund if it can be related.

Supposing that by permission of the Monetary Fund a currency is partially depreciated. Does that set into operation the countervailing duties?

Mr. BROWN. It would only set them in operation if the effect of the practice was the effect of dumping. And whether or not it would, Senator, I just don't know. That is a very technical subject, and I am not qualified to answer the question.

Senator MILLIKIN. I am afraid that it is left in such loose form that you would have a vast number of countervailing duties springing up the moment that the International Fund brings its parities to reality. The International Fund has accepted the parity valuations put upon currencies by the countries themselves. It has permitted some limited deviations from those, I call them, artificial parities.

A part of our burden of foreign policy—I was going to say "the whole burden," but I will say part of our burden—is to persuade these European countries, for example, to get their currencies down to a realistic base; which means they have to depreciate them. And if you have a wholesale development of that kind—and it is our objective that there shall be a wholesale development of that kind—I suggest that you would set into motion a great number of countervailing duties that might make a lot of confusion.

Mr. BROWN. Senator, I am sorry, but I don't know the answer to that question. I am quite confident that that was not the intention of this note, that it would not be so interpreted; but I can't tell you why, because I don't know.

Senator MILLIKIN. You have the difficulty there—and I do not know whether there is anything you can do about it. Except as the fund succeeds in bringing currencies into realistic relation with each other, you are working against an artificial factor all the time, which not only make trouble here, but will made trouble all over the world.

But I want to make clear that I do not expect this agreement to solve all of those problems. That opens up, perhaps, a field of criticism of the International Monetary Fund, and the way it was set up and the procedures of the fund, and I do not intend to ransack that in connection with this immediate problem.

Mr. BROWN. Well, sir, I am afraid I would have to ask you to get another witness on that subject.

Senator MILLIKIN. As to this article that we have been considering, what are the features of it that you believe require further action or approval by Congress?

Mr. BROWN. It would require a change in our countervailing duty law to say that you must have a showing of injury or threatened injury in order to justify the imposition of the duty. There is a provision to that effect in the present antidumping law. That is the only change that I know of, sir.

Senator MILLIKIN. You feel that otherwise the article is within the scope of your authority to make.

Mr. BROWN. Yes.

Senator MILLIKIN. All right. Let us consider article 7, the valuation for customs purposes. [Reading:]

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 personal purposes in the light of these principles. The contracting parties may request from contracting parties requests on steps taken by them in pursuance of the provisions of this article.

2. The value for customs purposes of imported merchandise shall 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 legislature 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 (1) the comparable quantities or (2) quantities not less favorable 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 thought ascertainable in accordance with subparagraph (e) of this paragraph, the value for customs purposes should be based on the nearest ascertainable equivalent of such value. The value for customs purposes of any important 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 (a) except as otherwise provided for in this paragraph, where it is necessary for 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 15 of this agreement.

Article 15 is the article you had in mind awhile ago, when we were discussing the point as to where you look to for your standards of measure.

Mr. BROWN. It is the article dealing with the arrangements of nonmembers of the fund.

Senator MILLIKIN (continues reading):

Where no par value has been established, the current value shall reflect 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 consistent 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, the basis 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, should be given sufficient publicity to enable traders to estimate with a reasonable degree of certainty the value for customs purposes.

Does article 7 coincide in substance with article 35 of ITO?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Does it coincide verbatim?

Mr. BROWN. Substantially, sir.

Senator MILLIKIN. Are there any features in article 7 of GATT which are not in article 35 of ITO?

Mr. BROWN. I do not think so; sir.

Senator MILLIKIN. It seems to me that this article expands even further some of the discussions that we have had on the question of the value of foreign money. Since I have been on this committee we have had bills before us having to do with the value of foreign moneys for customs purposes.

I would like to suggest to you that by practice, at least, that has been considered a subject which Congress would like to retain in its jurisdiction. Am I correct in that, Mr. Chairman? Did we not have the Treasury send a bill over here last year?

The CHAIRMAN. That bill is relating to the fixing of the rates of exchange, and under the tariff act, as I recall it, originally at least, it may have been amended, but under the tariff act every 3 months the Treasury was commanded to ascertain and to fix and advise the customs officials of the values of foreign moneys.

That may have been amended in some respecst, but I know the last bill of the kind we had here that I now recall was the pretty highly controversial measure intended to provide a method of fixing the value of exchange.

Senator MILLIKIN. If memory serves me correctly, the Treasury sent a bill over on that subject matter.

The CHAIRMAN. That is true.

Senator MILLIKIN. Then it fell into enormous controversy, and we had a lot of complaints from New York, the chairman may remember, and we were about to appoint a subcommittee to have a hearing on it when I believe the Treasury requested us just to let it rest for a while, and so nothing was done on that matter.

The CHAIRMAN. My recollection is that we did not take final action, but we did have under consideration and discussion a bill for that purpose.

Senator MILLIKIN. Now, how far does this article 7 go beyond the precedents which have been established in our laws, and in other reciprocal trade agreements, or as might otherwise be derived?

Mr. BROWN. There have been some provisions on this subject in earlier trade agreements. There have been provisions with respect to consultation between the parties on the matter of methods used or rates used for valuation, and also there was something in the most recent Canadian agreement involving their methods of customs valuation.

This involves a considerably wider field than the previous trade agreements.

Senator MILLIKIN. That is what I was getting at. In paragraph 1 all of the contracting parties undertake to give effect to the principles which are enumerated in the article, and I suggest to you, and believe you just said that a number of these principles are new and novel.

Mr. BROWN. The thought underlying this paragraph is a very simple one just as it is under a number of these that we have been discussing, and that is that if you are going to have a trade agreement dealing with tariff rates, it is important to have other provisions in the agreement which will keep the purpose of that agreement from being frustrated.

You have a schedule of tariff rates which some other country agrees to give us, and then they can use a completely arbitrary basis of value for the imposition of ad valorem rates, and then the concession which you have received is meaningless.

That is the basic idea underlying, and the basic purpose of this article.

Senator MILLIKIN. I understand that is the purpose. I suggest again that there are no predetermined standards on which you shall make an agreement of this kind. I suggest that you decide entirely

when you move and how you will move to stop obstructions to trade.

As I suggested to you yesterday, you can take over almost the whole law-making function of Congress by following that process of reasoning. There must be some limitations on your authority. You have not defined them.

Yesterday I got the impression that you rather agreed with me that if there is any economic factor anywhere that makes or sets up a hurdle to expanding trade, you feel entitled to move in on it and make protective provisions on these reciprocal trade agreements.

If that was not your theory, I wish that you would put some limits on it.

Mr. BROWN. That is not my theory, and I would like to take this case as an example. As I said, it is meaningless to have a series of ad valorem rates agreed to in a schedule if there is no assurance that the values on which those rates should be applied will have some stability and some actuality. Therefore, it is in my opinion absolutely within the proper purpose and scope of an agreement dealing with tariff rates to have appropriate provisions dealing with the basis of valuation on which they are applied, so that there may be some stability in the results of the agreement and so that the parties may know where they stand.

Senator MILLIKIN. Do you not see, Mr. Brown, that under the statements you have just made that you could move into the whole field of monetary controls? Where do you stop?

Here there is the obligation to review our domestic laws and regulations relating to value for customs purposes.

Mr. BROWN. We do that every day, Senator.

Senator MILLIKIN. Mr. Brown, if you say that we recognize the value of currency has a profound impact upon the regulation of trade and on the freedom of trade from hurdles, then I suggest that under your theory you must take the next jump and say, "We will provide what protections we think of anywhere along the line to stop it."

I suggest that when you get into that line of reasoning you are taking over the authority of Congress.

If that is not your line of reasoning, where do you stop?

Mr. BROWN. Right here.

Senator MILLIKIN. I think that the accumulative effect of your testimony will show that you have stopped here, but in stopping here you have almost put Congress out of business.

Mr. BROWN. That was not our intention nor is it our desire, sir.

The CHAIRMAN. We will have to suspend here. We will recess until two o'clock.

(Whereupon, at 12 o'clock noon, the committee recessed until 2 p. m. of the same day.)

AFTERNOON SESSION

(The committee reconvened at 2 p. m., upon the expiration of the noon recess.)

The CHAIRMAN. Let us proceed.

Senator MILLIKIN. Mr. Chairman, I believe we were considering article VII.

Article VII, except insofar as we can escape from the whole agreement, or might be excused from the agreement, is in terms of possible obligation, is it not?

Mr. BROWN. That is correct.

Senator MILLIKIN. I notice in paragraph 2, there is a declaration that values should not be based on the value of merchandise of national origin, or on arbitrary or fictitious values. What specifically was in mind, so far as merchandise of national origin is concerned?

Mr. BROWN. This contemplates that the valuation for customs purposes should be foreign value and not the valuation in the importing country.

Senator MILLIKIN. I see.

Mr. BROWN. And that would require a change in our legislation, in some parts of our legislation.

Senator MILLIKIN. Then it goes on to say "or on arbitrary or fictitious values."

I suggest to you that almost all currencies are on an arbitrary basis. And does that not rather wipe out the whole matter of valuation, if you adhere to that principle?

Mr. BROWN. I think it is quite correct, Senator, that there are many currencies in the world today which are not on the basis which we would regard as the proper one. But I don't think that detracts from the principle in this article that you should not use arbitrary or fictitious values. And there are many other forms of arbitrary valuation beside the one of the currency rate.

Senator MILLIKIN. Yes, I agree with that. But I was confining my observation to the proposition that I don't know of any exception, unless it be our own currency, and I am not so sure that the exception applies there. But certainly over a large area of the world, the currencies are on an entirely arbitrary basis. And in reflecting on it, it occurred to me that if you are literal about that you would have a devil of a time valuing any import.

I notice in paragraph 4, it says [reading]:

> 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.

We have discussed the constitutional implications of that. Do you wish to add anything to what you have said on that score?

Mr. BROWN. I don't think so, Senator.

Senator MILLIKIN. Now, I notice in paragraph 4, subparagraph (c), it says [reading]:

> The Contracting Parties, in agreement with the International Monetary 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.

I think we touched on that subject obliquely during our discussions of the morning, but I invite your attention to the fact that there is a positive provision that there must be agreement with the International Monetary Fund. And I am suggesting to you again that that may represent an improper further delegation of power; that it may be considered as representing a triple delegation of power under this agreement.

Do you have any further comment to make on that?

Mr. BROWN. I don't think I have anything to add to our previous discussion on that subject, Senator. I think I have covered it as well as I can.

Senator MILLIKIN. Subparagraph (d) says [reading]:

> 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.

Would it be correct to state that that is the only exception to the rule which has been laid down in this article?

Mr. BROWN. That is directed to a particular and very unusual case, Senator, in which Australia computes its duties in pounds sterling and collects them in Australian pounds. If this were literally carried out, it would mean that they would have to change that practice and collect them in pounds sterling as well as computing them in pounds sterling, which would mean a general increase in the level of duties. That was not contemplated; and that is why this clause is in there.

Senator MILLIKIN. But if the alteration has not had the effect of increasing generally the amount of duty payable, then all of these countries are under the injunctions of this article; is that correct?

Mr. BROWN. Yes, sir; this applies only to that case I have described.

Senator MILLIKIN. I notice in paragraph 5 there is what I am afraid is an expression of hope that the regulation contemplated shall be stable. How can it be stable, in the face of all the fluctuations in the value of currencies? I suppose you mean as stable as possible.

Mr. BROWN. As stable as possible. It means the method of determination should not be changed from day to day.

Senator MILLIKIN. Of course, you might reach a point where you would have widespread fluctuations from day to day in international trade. I cannot conceive it as hardly possible that you would be changing all your rules every day; although the private merchant has to do that when those changes occur. Would it be correct to state that that is a standard which you hope to attain, and that you want to make it as stable as possible under all the circumstances?

Mr. BROWN. That would be true, and this would be a way of keeping the confusion from becoming worse confounded by having the method as well as the rate fluctuate.

Senator MILLIKIN. In other words, in this particular instance it seems to me that as a practical matter you could not be too acutely logical. You might have to be a little bit slow in changing your conversion rates, unless you wanted, as you say, to compound confusion. But I do not believe the point is particularly important. I was wondering how you were going to keep things stable, when things are inherently unstable.

Mr. BROWN. Well, sir, you can have a very rough sea, and a ship, and you can have a gyroscope; which doesn't stop you from swinging to a certain extent, but it does limit the degree of the arc.

Senator MILLIKIN. On your interpretative paragraphs: I notice the first paragraph says [reading]:

> 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.

Are these provisions in effect so far as we are concerned, Mr. Brown?

Mr. BROWN. No, sir.

Senator MILLIKIN. What part of this is in effect, so far as we are concerned?

Mr. BROWN. I was going to come to that when you asked me about those changes.

Senator MILLIKIN. I think we are ready for that now. My question to you is: What part of this article is in effect, and what part of it is not in effect, so far as we are concerned, and what part of the article, if any, will come back to Congress for approval or for changes in our existing laws?

Mr. BROWN. In the case of certain articles in our tariff, we require that the valuation used should be the American selling price and not the foreign selling price. That would need to be changed, if this agreement were to come fully into effect.

There is provision, however, in the agreement, that if that is done, a compensatory adjustment can be made in the tariff rate, so that again it is a question of changing the form and the method but not the level of protection involved.

Senator MILLIKIN. Any change that would be made in the tariff rates would be by negotiation under the reciprocal trade system? Or would it require a Congressional change in the rate?

Mr. BROWN. It could be done, I should think, Senator, either by Congressional action on the rate or by the Congress saying to the Tariff Commission, "You figure out the tariff" and authroize the imposition of that rate. I would think that would be a more convenient method, probably.

Senator MILLIKIN. What others?

Mr. BROWN. Then we will need some changes on this to put into effect the requirement of—

quantities not less favorable to importers than those in which the greater volume of the merchandise is sold in the sale between the countries of exportation and importation.

What we have now is a provision as to usual wholesale quantities in the country of export. An illustration of the situation is one where you have a product coming from a country which exports most of it, so that the quantities sold in the country of origin are small quantities, and therefore of higher value, and the exports are in larger quantities with lower unit values. And under this article VII, the criterion used is the quantities that normally move in international trade. Under our law we would be obliged to use the quantities that move in the country of origin.

Senator MILLIKIN. What else?

Mr. BROWN. I believe that in some parts of our tariff act there are certain fixed percentages to allow for profits and expenses going into the computation of value. They are just percentages that are picked out of the air. That would have to be changed to allow determination of actual value.

There would have to be a specific legislative statement of the fact set forth in 4 (a), that it should be the par value established by the fund, which would be used as the basis of conversion.

Senator MILLIKIN. Would you mind repeating that statement, please?

Mr. BROWN. Section 4 (a) says that the conversion rate "shall be based on the par value of the currencies involved" as established under the fund agreement.

Senator MILLIKIN. Yes.

Mr. BROWN. We would need to have specific congressional authorization requiring that.

Senator MILLIKIN. I am gratified to hear that. It seems to me that at that point you are going pretty far afield.

Now, may I assume, in connection with this article and the other articles that we have discussed and will discuss, that except as you point out to me, where you expect to ask for congressional changes, or congressional approval, you do not believe that congressional approval is necessary, or that congressional changes are necessary. May I assume that?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Did we agree at the beginning of our discussion that, let us say, some of the elaborations of this subject are novel?

Mr. BROWN. I was not quite complete, Senator. My attention has been called to the fact that the part of article VII which says, under paragraph 3 that you don't include in value taxes to which the exported product is not subject, should require a specific legislative mandate to that effect, for this reason: Our present law has been variously interpreted and it is not entirely clear as to whether in all cases this rule would apply.

The Supreme Court has held in at least two important cases that this is the way our present law should be interpreted, but there is some ambiguity, and we would want to have it clarified so that it would be held to clearly apply in all cases.

Senator MILLIKIN. Now we come to article VIII, Formalities Connected With Importation and Exportation. [Reading:]

1. The contracting parties recognize 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 domestic products or a taxation of imports or exports for fiscal purposes. The contracting parties also recognize the need for reducing the number of 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.

Is this article the same in substance as article 36 of ITO?

Mr. BROWN. Yes, sir; there is one additional paragraph in the ITO that is not in this.

Senator MILLIKIN. Will you mention that one, please?

Mr. BROWN. That is paragraph 6. And there is also paragraph 4. Paragraph 4 in the ITO charger says that the Organization will make certain studies in that field. Paragraph 6 is new in the charter.

Senator MILLIKIN. What is the purpose of paragraph 6? What specifically were you aiming at there?

Mr. BROWN. Paragraph 6 of article 36 of the charter?

Senator MILLIKIN. Yes. It says [reading]:

The members recognize that tariff descriptions based on distinctive regional or geographical names should not be used in such a manner as to discriminate against products of Member Countries. Accordingly, the members shall cooperate with each other directly and through the organization with a view to eliminating at the earliest practicable date practices which are inconsistent with this principle.

First tell me what are the practices that are inconsistent with the principle. What do they do that gave rise to that?

Mr. BROWN. I think one illustration is the place where you advertise a wine as champagne. That is a traditionally French product, coming from a particular area and having a value for that reason. I think the purpose of this is to prevent the abuse of that kind of designation; having proper labeling, and that kind of thing.

Senator MILLIKIN. Now, I notice in paragraph 2 the positive injunction that the contracting parties [reading]—

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.

What impact do you see there on the jurisdiction of Congress?

Mr. BROWN. I don't see any, Senator. That goes on every day. Representatives of other countries are in constant consultation with our customs authorities about the particular cases and the way our laws have been operating on imports from their countries, and our officials always are most happy to sit down with them and discuss the problem, and see if it is possible to resolve the difficulties.

Senator MILLIKIN. What is the action that is to be taken? What action is contemplated that the contracting parties [reading]—

shall take * * * in accordance with the principles and objectives of paragraph 1 of this Article?

Mr. BROWN. To simplify their regulations and the complexity of their fees. I don't think there is very much that would need to be done in this country under this article. We comply with it pretty well as a matter of practice, and have.

But this is a field in which our exporters have found most enormous frustration and difficulty and irritation. We think we are living up to this pretty much now.

Senator MILLIKIN. You do not interpret this as requiring any action by Congress?

Mr. BROWN. No, sir.

Senator MILLIKIN. The derivation of this particular article, please?

Mr. BROWN. Paragraph 3, for example, has appeared in a number of our trade agreements before, and some of the subject matter has been referred to. It has never appeared before in precisely this form.

Senator MILLIKIN. What about substance? You say it has never appeared before in this form. What about substance? Is there anything new in substance here?

Mr. BROWN. It is my impression that in some of our trade agreements there is a reference to keeping fees and charges to the cost of the service rendered. I am not sure about that.

Senator MILLIKIN. Is there any part of this that you are bringing back to Congress?

Mr. BROWN. No, sir.

Senator MILLIKIN. I invite your attention to the interpretative provision. It says [reading]:

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.

Do you have any comment to make on that?

Mr. BROWN. No, sir.

Senator MILLIKIN. Article IX, Marks of Origin. [Reading:]

Each contracting party shall accord to the products of the territories of other contracting parties treatment with regard to marking requirements no less favorable 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 cooperate 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.

Is this article in substance the same as article 37 of ITO?

Mr. BROWN. Yes, Senator.

Senator MILLIKIN. Is it the same in language?

Mr. BROWN. Almost identically.

Senator MILLIKIN. Are there any deviations other than of the character that we have discussed before?

Mr. BROWN. No.

Senator MILLIKIN. Is there anything in here that you feel should be brought back to Congress either for legislation or for approval?

Mr. BROWN. There is one small point. Normally, our practice is exactly as set forth in this article. There are, however, two or three cases in our law where we do not permit the required mark of origin to be affixed at the time of importation. We would ask the Congress for permission to allow that to be done.

Senator MILLIKIN. What is that point? I notice it carries through quite frequently. Why is the mark of origin not put on the product at the point of origin?

Mr. BROWN. Well, quite a number of times, and particularly with the development of the free ports, shipments come over, and it is not always known exactly where they will go when they get to the free port. Also, orders are sometimes canceled, and sometimes, it is more convenient as a business matter to do all your marking at one place rather than to do it at another. And there are a number of practical business considerations that we have been told about by the business community which say that it would be more convenient generally to have that permitted to be done.

It is not required to be done in that way. It would be permitted to be done in that way.

Senator MILLIKIN. Is there a basic international law that requires marking at the point of origin on the product?

Mr. BROWN. Yes, there is, as to a great many products.

Senator MILLIKIN. Is that international law, or does it result from similar laws of all the countries?

Mr. BROWN. No; those are domestic laws, Senator. For example, I believe that we have to mark the country of origin on every clothespin that comes in, in bulk.

Senator MILLIKIN. I have seen those markings on products, but I thought it was a species of bragging.

Mr. BROWN. No, sir. It is a most burdensome requirement of our law; and similarly of other countries' laws.

Senator MILLIKIN. Let us pass to article X, which is entitled "Publication and Administration of Trade Regulations." [Reading:]

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 uniform, impartial, and reasonable manner all its laws, regulations, decisions, and rulings of the kind described in paragraph 1 of this article.

Is this the same in substance as article 38 of ITO?

Mr. BROWN. Yes, sir; this is the same in substance. It requires no change in our law. It really is descriptive of our present practice, and we would be very delighted to see it put into effect throughout the world.

Senator MILLIKIN. Is it in effect so far as we are concerned?

Mr. BROWN. Yes, sir. This is what we do.

Senator MILLIKIN. In connection with the provision of the charter by which the countries seem to have some discretion as to what part

of the charter they consider to be binding upon them, consistent with their own legislative situation, have each of the contracting parties notified any central agency or notified the contracting parties as to what parts of the charter they consider to be effective against themselves?

Mr. BROWN. The charter, sir?

Senator MILLIKIN. I mean the agreement.

Mr. BROWN. No, sir. There is no formal statement filed on that.

Senator MILLIKIN. I mean, Do you at this moment know what X country considers as binding against it?

Mr. BROWN. I personally do not know, but there is someone in my organization who would know.

Senator MILLIKIN. There is someone in your department who would know, nation by nation?

Mr. BROWN. I don't think there is any piece of paper on which that is all written down; no, sir.

Senator MILLIKIN. Well, considering the number of parties to this agreement, unless that has been codified in some way, is there not a little confusion?

Mr. BROWN. No.

Senator MILLIKIN. It is just carried in everybody's head? How can we get at it? How can we find out how much of this agreement is effective, country by country?

Mr. BROWN. We would make a detailed study, but we have not considered that it would be useful to do so.

Senator MILLIKIN. Well, would it be a fair generalization to say that, first, no country has so far accepted completely all of the provisions of the charter? Would that be fair?

Mr. BROWN. I think you mean the agreement, sir.

Senator MILLIKIN. I mean the agreement. I am anticipating myself.

Mr. BROWN. That is correct.

Senator MILLIKIN. And would it also be correct to say, and I think it probably follows from that, that each country considers a part of this agreement now effective, and other parts as not effective so far as it is concerned?

Mr. BROWN. I think almost everyone of the contracting parties is in the same situation as ourselves, that in order to comply with this agreement fully, it would have to make certain legislative changes which have not yet been made.

On the other hand, there are a great many of the provisions, the bulk of them, that are in effect for most of the countries.

Senator MILLIKIN. Mr. Brown, I noticed that in making up this parallel column arrangement from which I am working, you have article 39 of ITO set out with the notation that there is "no comparable article" in the agreement.

Would you mind commenting on your reason for setting out article 39 of the charter?

Mr. BROWN. I don't know why that was included, Senator. I don't think it should have been.

Senator MILLIKIN. I think you have already stated that there is nothing in this article that you will refer to Congress. Is that right?

Mr. BROWN. No, sir. This conforms completely to our existing practice.

Senator MILLIKIN. Now, let us consider article XI, entitled "General Elimination of Quantitative Restrictions." [Reading:]

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

(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 subparagraph (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 production 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.

Mr. Brown, is this the same in substance as article 20 of ITO?

Mr. BROWN. There are differences, Senator. And I am a little handicapped in the fact that I haven't the same or a comparable table.

Senator MILLIKIN. I have something here I want to look at, so we can both do a little studying for a moment.

(Brief pause.)

Mr. BROWN. I think I am ready, sir.

Senator MILLIKIN. Mr. Chairman, I would like to read into the record excerpts from a press release of August 23, 1948, put out by the United Nations, Department of Public Information, Press and Publications Bureau, Lake Success, Nassau County, N. Y., on the general subject matter of The General Agreement on Tariffs and Trade.

I am reading from page 6 of that press release:

In general terms, the general agreement on tariffs and trade is a concrete indication on the part of the major trading nations of the world, in advance of the creation of ITO, that the commitment in the Habana charter to negotiate towards the substantial reduction of tariffs and elimination of preferences can be fulfilled. It proves the willingness of these important countries to work together toward removing barriers to world trade. It is significant evidence that one of the most important principles of the Habana charter can be put and has been put into operation.

The general agreement is, in effect, a full-scale commercial policy charter, incorporating many of the commercial rules laid down in the more comprehensive Havana charter. It is an arrangement, intended to give force to certain rules of international commerce, and to provide a binding structure for the tariff negotiations completed at Geneva, 1947, and to provide a basis for extending further tariff reductions all over the world.

The terms of the general agreement are worked into the appropriate articles of the Havana charter which refer to GATT and to the contracting parties specifically. The most important point of contact is, of course, under article 17 of the charter which deals with reduction of tariffs and elimination of preferences.

Do you wish to make any comments on that, Mr. Brown?

Mr. BROWN. No, sir.

Senator MILLIKIN. All right.

Mr. BROWN. The provisions of article XI are contained in article 20 of the Havana charter, but not all of the provisions of article 20 are included in article XI. The provisions of article 20 which are omitted from article XI are the portion in section 2 (b) of article 20, following the first semicolon at the end of the third line, and the provisions of paragraphs 3 (a) and 3 (b).

Senator MILLIKIN. Dealing generally with what?

Mr. BROWN. The portion of 2 (b) which is left out refers to action by the Organization. And paragraph 3 (b) deals with import restrictions that may be applied under the provisions of paragraph 2 (c), particularly the requirement of advance notice and consultation.

Senator MILLIKIN. Will you be good enough to give us a rather full explanation of this article?

Mr. BROWN. This is a very important article, Senator Millikin. It sets forth one of the basic principles of the agreement, which is a principle which has been contained in all of our trade agreements that quotas should not be used on the importation of products covered by the agreement. This is broader because it applies to all products. The same is true of export quotas. That is a fundamental principle of the agreement which is modified by a series of exceptions which appear in later articles, and which I assume you would like to discuss as we come to them.

Senator MILLIKIN. Before we come to the exceptions: I am a little bit mystified by the precise languages, in paragraph 1. [Reading:]

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—

Well, what prohibitions or restrictions are there, other than "duties, taxes, or other charges" or other than "quotas, import or export licenses or other measures?"

Mr. BROWN. It is intended to refer to quotas and licenses. That is the principal thing it is intended to refer to.

Senator MILLIKIN. I felt sure that was the intention, but I am wondering whether we have said it.

Mr. BROWN. Sir, this is boilerplate language, which has come up through the years. And, as you know, they get encrusted in traditional form. I think perhaps if I were sitting down to draft this de novo I might have suggested a different form of words.

Senator MILLIKIN. If you just take it as a matter of grammar——

Mr. BROWN. Please don't do that, Senator.

Senator MILLIKIN. No; I am not going to start that. (Reading:)

No prohibitions or restrictions—

and you stop there and come down to this language—

shall be instituted or maintained.

All right. What are the exceptions

other than duties, taxes, or other charges, whether made effective through quotas, import or export licenses, or other measures?

So I do not know what is left.

Mr. BROWN. I think I would parse it this way, Senator:

No prohibitions other than duties, taxes, or other charges shall be instituted or maintained on the importation of any product.

And the "whether made effective through" is illustrative. You could have said "e. g.".

Senator MILLIKIN. Yes. Well, I am quite sure that is the intention. I was somewhat mystified at the way it was stated.

Mr. BROWN. I don't blame you.

Senator MILLIKIN. Now, bring that prohibition against the exceptions, so that we can determine the scope of the exceptions, and what is left after you get through with the exceptions. And give us some examples as you go along.

Mr. BROWN. The first exception is that you can impose export control in the case of short-supply items. No nation would be expected to just let all its essential materials be drained off. We are using that, of course, extensively at present.

Paragraph (b) is boilerplate. It has always appeared in every trade agreement.

Paragraph (c) is a case where you have a domestic program, an agricultural program, and there is a restriction, a limit, on the amount of the domestic production. You can limit the imports.

Senator MILLIKIN. Let us get right into that now. (Reading:)

(c) import restrictions—

Now, this is by way of exception; excepted from the prohibitions mentioned in paragraph 1—

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 products 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

(ii) to remove a temporary surplus of the like domestic product, or, if there is no substantial domestic production of a 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.

Please give examples and see if we can get what is intended by that.

Mr. BROWN. The last case is a very limited one and a simple one. It is the case where a country restricts the production of a product of its own domestic production. Then it can also restrict imports of the things that go into making that domestic production, in order to make it possible for them to carry that out; the theory being that if the country imposes a limitation on its own people, you see, it would only be fair that it also imposes a limitation on other countries.

Senator MILLIKIN. Give me an example of what you are talking about?

Mr. BROWN. The only one I can think of is that Norway, for example, restricts the production of meat, and it also restricts the imports of the feeding stuffs that go into that meat.

Senator MILLIKIN. Where might that have significance, so far as our situation is concerned?

Mr. BROWN. For us? We have not thought of any cases.

Senator MILLIKIN. Do we have any restrictions of that kind? Any at all that you can think of?

Mr. BROWN. I don't think so.

Senator MILLIKIN. Senator George, do you know of any?

The CHAIRMAN. I do not recall any at the moment.

Senator MILLIKIN. All right. Let us get into the other exceptions.

Mr. BROWN. Moving backward, sir, paragraph 2 is where you had a case like our stamp plan, our food stamp plan, in which we disposed of surplus agricultural products by the stamp plan to give undernourished people the use of them.

Senator MILLIKIN. Then, when we are in that sort of a situation we can impose a quota against imports of the same article.

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. All right.

School lunches, I suppose, would come under that.

Mr. BROWN. Yes. Then, in (c) we have had cases and other countries have had cases where it has been necessary for the Government to take action to reduce surpluses, and to prevent disastrously low farm prices by acreage control; and it would obviously be unfair in such a case to permit imports to come in and to contribute to the very same surplus situation which the Government was stepping in to correct. In that case a quota could be used.

Senator MILLIKIN. We have authority to go into many acreage limitations. We can go into acreage limitation on a number of products. If we imposed acreage limitations, does that automatically permit us to fix quotas on the same product?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Anywhere along the line? There is no exception to that?

Mr. BROWN. We couldn't fix the import quota at an arbitrarily minute amount. I mean, there must be a reasonably proportional amount.

Senator MILLIKIN. Where does it say that?

Mr. BROWN. Where it says [reading]:

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.

And the test given there, the one objective test, is the previous representative period.

Senator MILLIKIN. That is another way of saying that if we were actually applying acreage restrictions, we could not exclude completely the similar product from a foreign country.

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. But our exclusion would be measured by what would be considered as a fair proportion under normal conditions.

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. All right. Do you want to continue to move backward, there?

Mr. BROWN. I think I have met myself coming down, sir.

Senator MILLIKIN. Mr. Brown, it seems to me that here you have entered very substantially into a field of congressional jurisdiction. What is your theory as to your authority to enter into that article?

Mr. BROWN. The same theory that I have advanced before, which is that when you enter into an agreement, a reciprocal tariff-reduction agreement, it must contemplate not only the tariff concessions on both sides, but some provisions which will make those tariff concessions effective. You cannot treat tariff concessions just in vacuo. And that has always been the case in all of our trade agreements: that there have been these general provisions dealing with the use of methods of evading the effect of the tariff concessions granted.

Quotas have been one of the most effective ways of evading the effect of concessions, and there have been provisions in all our trade agreements dealing with and limiting the use of quotas. It is on that theory that we have dealt with them in this agreement, although clearly the conditions of today's world make any document which deals with them rather complicated.

Senator MILLIKIN. We were discussing this morning the distinction between a procedural provision and a procedure which deals with and establishes substantive law.

Let us take the case of the limitation on the production of agricultural products in this country. If we came into sharp limitation of acreage in any field, or any other type of limitation, limitation on the end product, for example, any sharp limitation of that kind, you can see at once what the political repercussions would be here at home. You would have a hard time selling the farmer of this country on the proposition that while he is undergoing those limitations, at the same time foreign stuff should come in here and take its part of a market which, under those circumstances, he might well feel belonged to him.

Now, I suggest that that is a very important policy that you have here. I suggest that only Congress can establish a policy of that kind. I suggest that the Congress might not agree with that kind of a policy. I suggest that there is no authority in your enabling statute to impose that kind of a limitation.

What is your theory?

Mr. BROWN. My theory is that there is, Senator.

Senator MILLIKIN. Well, that is a simple disposition of the matter, Mr. Brown.

I am not so sure that the Congress would feel itself bound to follow your lawmaking, here.

Mr. BROWN. Of course not, sir. I would never suggest that Congress was bound by anything which I stated.

Senator MILLIKIN. Do you intend to bring back any part of this article to the Congress?

Mr. BROWN. We intend to ask the Congress to repeal the prohibition on the export of tobacco seed, which would be clearly prohibited by paragraph 1 of this agreement. And I think, although I am not yet completely sure on this point, that we shall ask the Congress sharply to modify if not repeal the manufacturing clause in the copyright law, based partly on this article and partly on article III. Because that operates as an absolute prohibition upon the importation into this country of any book in the English language.

Senator MILLIKIN. Anything else?

Mr. BROWN. No, sir.

Senator MILLIKIN. You do not intend to ask the approval of Congress of that part of the article which proposes a restriction on its congressional power to establish a quota if it feels that it should be established, in connection with its domestic production regulations?

Mr. BROWN. No, sir; there have been quota provisions in our agreements from the very beginning.

Senator MILLIKIN. Give me the derivations for the exact substance of what you have here.

Mr. BROWN. This is the first time the provisions have appeared in precisely this form.

Senator MILLIKIN. I am speaking of the substance. Where have you ever made an agreement whereby you restricted the power of Congress to legislate in a field where it has a right to legislate?

Mr. BROWN. Many of our previous trade agreements contain quota provisions.

Senator MILLIKIN. I wish you would explain that.

Mr. BROWN. In Article X of the Canadian agreement, for example, it says that—

> no prohibition, restriction, or any form of quantitative regulation, whether or not operated in connection with an agency of centralized control shall be maintained in the United States of America on the importation and sale of any article grown, produced, or manufactured by Canada, enumerated and described in section 2.
>
> The foregoing provisions shall not apply to quantitative restrictions in whatever form imposed by the government of either country on the importation of any article, the growth, produce, or manufacture of the other, in conjunction with governmental measures or measures under governmental authority.
>
> (a) operating to regulate or control the production, market, supply, quality, or price of the like article of domestic growth, production, or manufacture.

and then it goes on. There is quite a lengthy provision about it.

I am quoting from the agreement of June 17, 1939.

Senator MILLIKIN. Any other precedents?

Mr. BROWN. Yes, sir. There is something about quotas in almost all the other agreements.

Senator MILLIKIN. In almost all of your reciprocal trade agreements?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You would not claim that there is any express authority in your enabling statute to do this.

Mr. BROWN. We are authorized in the enabling statute to enter into foreign-trade agreements and to negotiate tariff concessions. And the tariff concessions, in my opinion at least, could be completely frustrated by the use of quotas. Therefore, some provision regulating that is necessary to make tariff concessions effective.

And, again reserving my position, as a layman, sir, the act of 1934 does define "other import restrictions" as—

limitations, prohibitions, charges, and exactions other than duties imposed on importation or imposed for the regulation of imports.

Senator MILLIKIN. You feel that that is authority for you to occupy the whole field and to make any agreement that would have relation to those words?

Mr. BROWN. Do you want me to say "Yes" to that question?

Senator MILLIKIN. You can say "Yes" or "No."

Mr. BROWN. No; you have stated it too broadly, Senator Millikin.

The CHAIRMAN. Is there anything in this article, Mr. Brown, referring now to the general agreements and not to the provision in the Canadian trade agreements, because the Canadian trade agreement obviously would not, which would conflict with the provision, for instance, in section 22 of the Agricultural Adjustment Act?

Mr. BROWN. No, sir. It would have an effect on the administration of that act, but it would not affect the act itself or the authority conferred by the act.

The CHAIRMAN. Just what do you mean by "administration of that act"? Under that section 22, the President himself is authorized to take steps which will prevent the negation of an act of the Congress as, for instance, in the field of agricultural production.

Mr. BROWN. That is correct, sir. And it is the purpose of this exception to permit him to do so.

The CHAIRMAN. It is the purpose of this to permit that?

Mr. BROWN. Yes, sir.

The CHAIRMAN. And it would not operate to prevent it or to restrict or limit the power, would it?

Mr. BROWN. It would not prevent him from preventing the frustration of a program imposed under or put into effect under section 22.

The CHAIRMAN. I just wanted to get your view on that point.

Senator MILLIKIN. Do you understand, Mr. Chairman, that the President would have authority to put a quota into effect to prevent the frustration?

The CHAIRMAN. Oh, yes. Or a limited quota, or restrictions of some sort. Yes. He has done so.

Senator MILLIKIN. That is my impression.

The CHAIRMAN. That is true, is it not, Mr. Brown?

Mr. BROWN. That is correct, sir.

The CHAIRMAN. The President has imposed limited quotas, at least. I do not know of any instance in which he has put an absolute embargo on and stopped all importations, even though the agricultural program might have been suffering somewhat. But he has taken steps.

Mr. BROWN. An absolute embargo would not be permitted, as Senator Millikin has pointed out.

Senator MILLIKIN. What is the limitation in section 22 against an absolute, complete embargo?

Mr. BROWN. The one we discussed just a moment or so ago, Senator, that if domestic production is limited the imports should also be limited, but in a fair relationship, so that it would not be a complete exclusion of the imported product.

Senator MILLIKIN. That grant of power and that limitation on power resulted from an act of Congress?

Mr. BROWN. The grant of power was conferred by Congress.

The CHAIRMAN. That is right.

Senator MILLIKIN. Here we have a limitation which results from an act of the State Department.

Mr. BROWN. No, sir. The act of the President.

Senator MILLIKIN. The State Department is his right arm in these matters of foreign policy, as it should be.

Mr. BROWN. I hope so.

Senator MILLIKIN. What part of this article are you going to bring back to Congress?

Mr. BROWN. I told you, Senator, that we would ask for those two repeals.

Senator MILLIKIN. Nothing in addition?

Mr. BROWN. I don't think so, sir.

Senator MILLIKIN. As to the particular provision that I have been discussing with you, to wit, the restriction against a complete embargo, you feel that you have the authority under your enabling statute and this amorphous Presidential power, to impose that without an act of Congress? You feel that you have that authority?

Mr. BROWN. We think this provision is within our authority.

Senator MILLIKIN. Mr. Chairman, I am curious about what your own reaction would be if we got into a touchy situation, here, and had a seriously restricted production of food products, is it inconceivable that the Congress might want to impose a complete embargo under such circumstances?

The CHAIRMAN. I would not think they would go that far. I would think that substantially the powers imposed on the President in section 22 of the Agricultural Adjustment Act would be about as far as you would go; that is, to prevent the frustration of a deliberately adopted program of the Congress, he is enjoined to exercise his authority to impose limiting restrictions on imports when such imports do result in the overturning of that policy.

Of course, it is always conceivable that you might have a condition growing out of some circumstances that would make it necessary for Congress to impose an embargo; but except in the fields of arms and munitions and weapons of war, I cannot think that we would be called upon to go that far, or that we would go that far, or that we would try to go that far.

Senator MILLIKIN. What I had in mind was that there is quite a little agitation for a rigid support price policy.

The CHAIRMAN. Yes.

Senator MILLIKIN. And if we have a rigid support price policy, then, as a matter of sound procedure, I suggest we have to have legislative authority for rather rigid controls on production.

And after we have had these years of encouragement of production, to bring our farmers down to rigid controls on production, and a substantial lessening of production, would be something that I think as a practical matter would cause a lot of pressure around here not to lessen the market by importations of any kind.

Mr. BROWN. May I make one further observation on this, Senator?

Senator MILLIKIN. Yes.

Mr. BROWN. We have been discussing thus far the point of view purely of looking inward into the United States. The quota, of course, is the device which is most used against the exports of the United States, and very heavily against the agricultural exports of the

United States as well as the industrial exports. And it has been and still is one of the primary objectives of our efforts to limit the use of that very effective weapon against our exports.

Therefore, I think this article must be looked at very carefully from that point of view as well. We must recognize that in this article we have protection against the complete embargo by another country of our products which we would like to send in to it. And in view of the very great importance of our exports to that segment of the community, and to the Nation as a whole, that is a tremendously important aspect of this. I mention that only to balance the consideration.

Senator MILLIKIN. This is entirely in the field of opinion, but I think you will find that as food production increases in the rest of the world, the nationalistic tendencies, which are growing rather than contracting, will result in quotas and all other restrictions necessary to keep our farm products out of competition with domestic production in those foreign countries.

May we now come to article XII?

First, though, have you any other comments on article XI?

Mr. BROWN. No, sir.

Senator MILLIKIN. Article XII is entitled "Restrictions to Safeguard the Balance of Payments." [Reading:]

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

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 postwar adjustment and of the need which a Contracting Party may have to use import restrictions as a step toward 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, trade-mark, 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 part 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 subparagraph 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 30 days. A contracting party thus invited shall participate in such discussions. The Contracting Parties may invite any other contracting parties 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 subparagraph (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 subparagraph (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 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 60 days, they may release any contracting party from specified obligations under this agreement toward the contracting party applying the restrictions.

(e) It is recognized that premature disclosure of the respective 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 unmost 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 discussion 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 payment

are tending to be exceptionally favorable, or by any appropriate intergovernmental organization to remove the underlying causes of disequilibirum. On the invitation of the Contracting Parties, contracting parties shall participate in such discussions.

The CHAIRMAN. Is that in the Geneva agreement?

Senator MILLIKIN. Is it, Mr. Brown?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Is it in there in the same substance?

The CHAIRMAN. I meant in the Habana agreement.

Mr. BROWN. Yes, sir. The Habana agreement, has an introduction which is not in the Geneva agreement, and there is one small sentence in paragraph 3 (b) of the Habana agreement which is not in the Geneva agreement, but that is unimportant.

Senator MILLIKIN. Otherwise it is the same in language.

Mr. BROWN. Yes, sir.

The CHAIRMAN. As far as the Habana agreement goes, it has to come to Congress in some form or other, all of it.

Mr. BROWN. Yes, sir.

The CHAIRMAN. But let me ask you this: Do you recall the precise act under which the Secretary of Agriculture is authorized to fix quotas on sugar imports?

Mr. BROWN. Yes, sir; under the Sugar Act of 1948.

The CHAIRMAN. There, an estimate is made of the probable consumption of sugar in the United States within a period, and there is an estimate of supplies and production within the United States and a quota is fixed.

Mr. BROWN. Yes, sir. But there is a quota on domestic production as well as on the imports.

The CHAIRMAN. Yes, there is a quota on domestic production.

Well, now, would this be a fair illustration?

If Cuba, for instance, or any other offshore producing country to which the quota is applied or can be applied, should think that they were unduly restricted, could they avail themselves of this particular provision of the Geneva agreements?

Mr. BROWN. We don't think that this provision would require any change in the law, Mr. Chairman. Of course, they could always come in and make representations, as they have frequently in the past.

The CHAIRMAN. You do not think that any change in law might result, or that any corrective measure could be taken that would change the law, the existing law?

Mr. BROWN. We don't think, under present circumstances, that it would. It might. And if so, we would have to come to the Congress and ask them to make the change.

The CHAIRMAN. But I was thinking, under the Sugar Act, of exactly what might happen.

Mr. BROWN. If, for example, there were a quota on the imports, but no quota on the domestic products, then there would be a violation of this agreement. But since both are fixed, and since the imports are fixed on the basis of a previous representative period——

The CHAIRMAN. But as you said just now, these quotas are usually applied against us.

We have certain instances, of course, where we are making use of the quota principle, trying to effectuate our purposes.

Excuse me, Senator Millikin. I was curious about that.

Senator MILLIKIN. I was very much interested in your observation.

The CHAIRMAN. The quotas are often applied against us, especially in the field of agriculture. And sometimes, very often, it becomes an embargo, not as to the whole product, but as to a particular form of the product.

For instance, during this last year Canada imposed what was in effect an embargo on pecans in the shell. That was the case even though pecans, shelled, were permitted to come in; that is, the restriction was not absolute as to the whole product, but applied as to certain types of that product; which operated very badly against a rather important crop in my section of the world. It operated so sharply against us that I perhaps was guilty of a breach of something by going directly over the heads of our own governmental authorities, and making an appeal to the Canadian Minister of Finance, as a result of which, after a little while, at least, practically, the embargo was lifted. It is not in effect now, but it was in effect during the growing season and the marketing and maturing season of the nuts.

So with respect to our sugar and with respect to the whole of the agricultural products covered under section 22 of the Agricultural Adjustment Act, to which we have already referred, and other acts, the quota principle is used by us.

Mr. BROWN. But very much less by us, Senator.

The CHAIRMAN. Oh, very much less. And I sympathize personally with the effort to discourage the use of it generally, because it is more effectively used against us, and more often used against us.

Frankly, I suppose it is continually employed against us, almost season after season and year after year, by some country or other. Maybe it does not assume such great importance at all times, but it is, of course, a trade practice; and if we could minimize it in any way at all, if would be desirable to do so.

At the same time, I think we would have to be overly cautious not to deny full effectiveness to such acts as we have passed that are based upon the exercise of the quota principle for the protection of any policy that we may have adopted.

That is all I had to say.

Excuse me again, Senator Millikin.

Senator MILLIKIN. Mr. Brown, would you mind explaining this article to us?

Mr. BROWN. I think I could state the substance of it in very much fewer words than appear in this document.

A very large portion of the principal trading countries of the world are today in very serious foreign exchange difficulties, and have been since the war. The reasons, I think, are familiar: the physical devastation of the war, and the intangible devastation to trade relationships, productive facilities, invisible earnings, foreign investment, and so forth.

Now, clearly, under circumstances of extreme exchange shortage, a country must for a time at least, and so long as that shortage exists, budget its foreign exchange purchases, in order to be sure that the exchange it does have is used to buy things that its citizens really need rather than luxury goods, which they can do without. And in essence what this article says is that when a country is in real balance-of-payments difficulties it may impose limitations upon its imports, so that it buys the things it really needs, and so that its scarce resources are not dissipated in the purchase of things that are less essential.

Now, the judgment as to the fact of whether there is or is not a real balance-of-payments difficulty is placed upon the fund, which is the international organization best qualified, set up to deal with that problem. And this article permits this limitation of imports for this purpose and commits the parties to the agreement to relax the restrictions as rapidly as that basic situation improves and to take them off when it is corrected.

This article would not permit the use of a quantitative restriction for a purely protective purpose; and it is as to the purely protective purpose that we want to get it outlawed. The use of quotas for protective purposes is the thing we are trying to get rid of in this agreement.

This period of transition in which the real foreign exchange difficulties exist will probably last for some time. But by these two articles, taken together, article XI and XII, there is the recognition by the parties to this agreement that they will not use the quota for protective purposes, and will stop using the quotas for balance-of-payments reasons when and as their balance-of-payments situation improves.

Senator MILLIKIN. Now we are making, are we not, our tariff policies in the light of the whole internal domestic fiscal policies of the contracting parties?

Mr. BROWN. No, sir. What we are saying in this agreement is that so long as the country is in real balance-of-payments difficulties, it may impose limitations on its imports which it could not otherwise impose.

Senator MILLIKIN. In order to reach that end point, we are required to make a study of the fiscal practices of the contracting parties, are we not?

Mr. BROWN. No, sir. As to the existence of the fact of balance-of-payments difficulties, the judge of that is the International Monetary Fund, which is the body which is set up to study continuously that kind of problem and to be the expert on it.

Senator MILLIKIN. So there again the decisive decision here is made by a body which is not mentioned in your enabling statute, which was not then contemplated, and results from a double delegation of power, does it not?

Mr. BROWN. I would prefer to say, sir, that the decisive decision is made by a body in which the United States has accepted membership through the action of the Congress, and which was established for the purpose specifically of dealing with this kind of problem, and in which the United States has a very substantial influence.

Senator MILLIKIN. Are you contending that the Monetary Fund under its charter which has our adherence, has authority to work in our tariff problems?

Mr. BROWN. No, sir. I am saying that the Monetary Fund, under its charter, would have authority to ascertain the fact of whether or not a country was in real balance-of-payments difficulties.

Senator MILLIKIN. Well, I hardly think that answers my question.

Mr. BROWN. My answer to the question is "No, sir." I do not think that the fund has any right to deal with our tariff policies.

Senator MILLIKIN. But when we put that duty upon it in connection with this agreement, it automatically becomes a governmental agency that has to do with our tariffs. How do you avoid that?

Mr. BROWN. We were faced with the situation that countries who are parties to this agreement had to budget their imports for the

reasons which I have outlined. And that was because they were in balance-of-payments difficulties. And we agreed that that was a justifiable reason for doing so.

Now, we could perfectly well have stopped there and said that any country in balance-of-payments difficulties may use import restrictions to budget its income and keep its expenditures to essentials. But we felt that it was more satisfactory and sounder for the United States to be sure that there was a real way of establishing the fact of the existence of balance-of-payments difficulties, and not leave it up in the air, or just to the declaration of the country concerned.

Senator MILLIKIN. Who refers the question to the International Monetary Fund?

Mr. BROWN. Any party that is affected by the action and would like to have an opinion on it.

Senator MILLIKIN. And is the Monetary Fund required to cooperate?

Mr. BROWN. I think that the Monetary Fund has agreed that it would cooperate and would give the information requested.

Senator MILLIKIN. You do not contend that the Monetary Fund is required to assume this role which you have imposed upon it.

Mr. BROWN. No, sir. It is entirely up to the fund as to whether it wishes to do so or not.

Senator MILLIKIN. So let me ask you again; Is there anything in the charter of the fund or in our act of adherence that puts this duty upon the fund?

Mr. BROWN. No, sir.

Senator MILLIKIN. I went all through the Monetary Fund business as a member of the Banking and Currency Committee at that time. And I do not think that this role was ever contemplated or hinted at as far as the Monetary Fund is concerned. There was discussion linking the need for the Bretton Woods agreement, reciprocal trade, and a whole lot of things; discussion linking the need for those things. But it would take a pretty violent imagination to say that out of a claimed need for those things, one part of it was to soon take over the functions of another part.

Mr. BROWN. I make no such claim, sir.

Senator MILLIKIN. I would not think that you would.

Now, then, let us start at the beginning again. There is nothing in the enabling act that contemplates this delegation of power to the fund, is there?

Mr. BROWN. There is nothing in the Trade Agreements Act that refers to it; no, sir.

Senator MILLIKIN. That is right. It could not have been contemplated, I suggest.

Mr. BROWN. I agree.

Senator MILLIKIN. Because we did not contemplate the fund at that time. All right.

Now, any member, you say, may invoke the power of the fund under this arrangement.

Mr. BROWN. The fund has agreed that it will make the determination contemplated by this article if it is requested to do so.

Senator MILLIKIN. So that any one of 23 countries, regardless of what the interests of the other countries may be, may invoke that power.

Mr. BROWN. I think the normal way to do it would be for the country interested to ask the chairman of the contracting parties to write to the fund and ask them for a study.

Senator MILLIKIN. Would the contracting parties, as such, make the request?

Mr. BROWN. I think so, Senator. I do not think that is spelled out here, but I think that is the way it would be done; yes.

Senator MILLIKIN. It seems to me that would be the only logical way to make it. I think you could overburden the fund and cause a great deal of confusion if every one of the 23 members was at full liberty to invoke that power.

Are you sure that the action is not limited to contracting parties?

Mr. BROWN. I think under article XV it probably would be, Senator.

Senator MILLIKIN. Yes. That is what I was driving at. I am quite sure it is that way.

So now, then, let us assume that the Congress delegated this power to you.

Mr. BROWN. Which power, sir?

Senator MILLIKIN. The power that is set forth in this article. Let us assume that the power represented there was delegated to you by the Reciprocal Trade Agreements Act.

Mr. BROWN. Yes. But if I may ask, in order to follow you, sir, I just want to be quite sure what power you are referring to, because you have mentioned several in connection with this.

Senator MILLIKIN. I thank you for the correction. Let us talk about the power of the fund and keep our discussion on the fund, until we specifically change.

Mr. BROWN. Which power of the fund, sir?

Senator MILLIKIN. The power of the fund to determine the question whether a country is in exchange difficulties.

Mr. BROWN. That is a power which is, I would say, inherent in the fund's constitution. The fund is a body which is set up to deal with international exchange problems. It reviews the situation of countries continuously. That is the only claim I make, Senator.

Senator MILLIKIN. All right.

But you also have given the fund a function under this article, have you not?

Mr. BROWN. Under this article we have contemplated that the contracting parties would seek the advice in this matter on the question of fact from the international body set up to deal with that kind of problem.

Senator MILLIKIN. And under this particular problem, accept the decisions of the monetary fund?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. All right. So I think, Mr. Brown, regardless of the words we put it in, we can accept it that this article imposes a function on the International Monetary Fund which I think you say it has agreed to assume. And I think you have stated that it does not have to assume it.

Mr. BROWN. That is correct.

Senator MILLIKIN. Therefore, I assume that the fund could discontinue that function whenever it wanted to, or at least whenever the terms of its agreement expire, if it has a right to make an agreement. I think we have agreed that there is nothing in the enabling

statute of the charter of the fund that contemplates that it shall be a party or have any role in tariff making. We are agreed on that. Am I not correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. All right.

Now, then, this article, including this provision for the fund, if it has any validity must derive it from the fact that the Congress delegated to you the right, if you have the right, to make the agreement; or to the President. And we will assume whatever general powers the President has in the field, if he has any.

So we have made a delegation to the President. The President has made a delegation to the contracting parties. We have one vote out of 23 of the contracting parties. Therefore, the submission to the Monetary Fund could be entirely beyond our control.

But the contracting parties now delegate——

Mr. BROWN. I would like to enter a caveat there, Senator, because I don't think that is true. I can't demonstrate it at the moment. I will have to look at the document. But I don't think that is true. I think we have a right to have a determination in the fund if they will give it; that is to say, the contracting parties could not stop that reference.

Senator MILLIKIN. I am under the impression that the reference to the Monetary Fund in this matter comes from the contracting parties. If that is not correct, we might as well get it straight.

Mr. BROWN. Yes, sir. But as you stated it, I thought you said that the contracting parties could refuse to refer the matter to the fund.

Senator MILLIKIN. That they could do what?

Mr. BROWN. That they could refuse to refer the matter to the fund. That is not correct, sir, because the first sentence of paragraph 2 of article XV obligates the contracting parties to consult the fund in all such matters.

Senator MILLIKIN. So that whatever our interest might be at the time, there would be a compulsory reference. We might not want a reference, and any other of the 23 countries might not, but there is a reference.

Mr. BROWN. Yes, sir. We consider that as a particular advantage.

Senator MILLIKIN. It is not an advantage to a country that does not want the reference.

Now we come to the Monetary Fund. The fund makes a very important decision—it might be a very important decision—and perhaps many of them, in complying with this proviso. So here we have something that was not in contemplation at all at the time you got your authority, and you use an intermediary consisting of 23 nations where we have one vote and which acts under majority control, and under the provisions you point out the reference to the fund is automatic in this particular case. You wind up in the Monetary Fund where we only have a 30-percent vote.

Do you not think that that is departing pretty far from any authority that you have, Mr. Brown?

Mr. BROWN. No, sir.

Senator MILLIKIN. You do not think so. Well, once more I ask you: What do you consider to be the limitations on your power?

Mr. BROWN. I have nothing to add to what I have said on that point, Senator.

Senator MILLIKIN. All right. Now let us see what we propose to do here. The contracting parties are supposed to relax their restrictions as their conditions improve. Who determines whether their conditions have improved?

Mr. BROWN. Initially, the contracting party that is imposing the restrictions; and I can give you an illustration of a case in which this has been lived up to.

Senator MILLIKIN. Go ahead, please.

Mr. BROWN. That is the case of Canada, to which Senator George has just referred.

I think it was in November of 1947 that the Canadians had a very serious balance-of-payments difficulty, and they imposed very severe restrictions, which had an adverse effect on many parts of United States trade as well as in the particular case to which the Senator referred. But since that time the situation of Canada has improved, and those restrictions have been progressively relaxed, and very substantially relaxed.

That is compliance with the provisions of this agreement. That is the kind of thing that is contemplated by the agreement.

Senator MILLIKIN. And that resulted through what mechanics?

Mr. BROWN. The action of the Canadians themselves.

Senator MILLIKIN. The Canadians themselves. Is it your contention that each party will be its own judge as to whether it has reached a point where it should relax some of these restrictions?

Mr. BROWN. I said initially, sir.

Senator MILLIKIN. Initially. Then what?

Mr. BROWN. Then, if another party that was interested felt that the point had been reached, and action had not been taken, they could bring the matter to the attention of the contracting parties, and an opinion of the fund on the question of facts could be obtained.

Senator MILLIKIN. Let us assume that the fund decided that there should be a relaxation. Then what?

Mr. BROWN. Then the contracting parties have a right to call in the party who is imposing the restrictions and see if they cannot persuade it to withdraw and relax the restrictions as the facts justify. And if that is not done, sir, then the contracting parties may authorize the other parties to the agreement to withhold the benefits of the agreement from the party who has not complied.

Senator MILLIKIN. So there the contracting parties again, operating under majority rule, can make a decision which would withhold a benefit to other nations, or which would have a strong pressure effect on one of the members, or which in the last analysis would set up a chain of retaliations. Correct?

Mr. BROWN. With one correction: which would permit the withholding.

Senator MILLIKIN. Which would what?

Mr. BROWN. Which would permit the withholding, not require it.

Senator MILLIKIN. A better word would be "compensatory" adjustments, rather than "retaliatory"? Is that right? Would you accept that substitution?

Mr. BROWN. I would take it either way, Senator, in this case.

Senator MILLIKIN. Take it either way. Good. It might be either.

You do not think that that is a new and novel and uncontemplated power?

Mr. BROWN. Senator, you put so much in your questions.

Senator MILLIKIN. Well, let us say a new power.

Mr. BROWN. I would say it is dealing with a new situation.

Senator MILLIKIN. A new power for a new situation. Would you say that?

Mr. BROWN. Or perhaps an old power for a new situation.

Senator MILLIKIN. An old power adjusted to a new situation.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. All right, sir. You see no novel features about it?

Mr. BROWN. Yes, sir; I think the situation is new. It is a new situation.

Senator MILLIKIN. The situation is novel. So the power, regardless of its precedent, or its antiquity, certainly receives a new substantive application, does it not?

Mr. BROWN. Yes. It has to be exercised in the light of the conditions which exist on the day on which it is exercised.

Senator MILLIKIN. Once again, here is a subject that might be of tremendous importance to any one of these countries. The contracting parties, acting as a unit, and under a majority vote rule, have large powers. They in turn can pass the question up to the international fund, which also would have large powers. And again I ask you: You see nothing in that which would violate the authority under which you are acting?

Mr. BROWN. I do not, sir, and I think that this provision is a very good provision for the United States, because the restrictions for balance-of-payments reasons are restrictions which will be used against the exports of the United States. We want to see their use confined to an absolute minimum, and that people do not depart from the rule against the use of quotas except under the most precisely defined conditions and under the greatest limitations. And we think that this paragraph is a considerable step in that direction, and therefore very much serve the interest and purpose of this country.

Senator MILLIKIN. For the purpose of my inquiry, Mr. Brown, it does not make any difference whether it is a good thing or not.

Mr. BROWN. I know, sir. You are directing your questions entirely to the question of power.

Senator MILLIKIN. I am directing my questions entirely to the question of your authority, your power.

The repercussions might not all be good. I suggest that decisions in matters of this kind could provoke the greatest of dissension and disunity among the contracting parties.

Mr. BROWN. That is true in any case of international consultation, sir.

Senator MILLIKIN. So all that I am trying to say is that it is not all blessing; that there are potentialities of defeating the very thing that you are trying to do.

Mr. BROWN. You can never guarantee; but we think that, based on our experience, the process of consultation is apt to lead to less dissension and difficulty than if you just go ahead without it.

Senator MILLIKIN. Would you say that that has been true in the United Nations?

Mr. BROWN. I would say it has been true in this field that we have been dealing with here, yes, sir.

Senator MILLIKIN. But you do not put that down as a universal rule, do you?

Mr BROWN. No, sir.

Senator MILLIKIN. Now, subparagraph (b) of paragraph 3, reads:

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.

I think that is obviously correct.

Accordingly,

(i) notwithstanding the provisions of paragraph 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. * * *

I have caught that same word formula several times, and it is not quite clear to me. What does it mean?

Mr. BROWN. It means that neither any one of the parties to the agreement nor the contracting parties, nor the group of them can tell any country that it has to change its domestic policies.

Senator MILLIKIN. What does that leave you? What is left, after you apply that?

Mr. BROWN. Oh, I think that leaves you a great deal, sir.

Senator MILLIKIN. You go on to say, in subparagraph (ii) [reading]:

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.

I assume that when that is done there cannot be any discrimination as to particular exporting countries. Is that correct?

Mr. BROWN. That subject is a large one, Senator, and is covered explicitly in the following paragraph. I would be glad to discuss it now, if you would prefer.

Senator MILLIKIN (continues reading):

(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, trade-mark, 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.

Now let us go back up there to subparagraph (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.

This is a further echo of what I put to you awhile ago, that we have now tied this thing up, where every one of the contracting parties has not only an interest, but a right to stick its nose into the economic affairs of every other contracting party.

Mr. BROWN. That is what paragraph (i) at the top of the page is designed to prevent, sir.

Senator MILLIKIN. I suggest that subparagraph (i) at the top of the page is designed to encourage that. Because when we lay out a principle that due regard must be given to the need for restoring equilibrium in their balance of payments on a sound and lasting basis and to the desirability of assuring economic employment of productive resources, every contracting party is entitled to observe the progress or lack of progress in that particular matter in the country of every other contracting party. And when you have enlarged the field of interest of these contracting parties, and, if you please, the field of right, where they can commence to exercise judgments on whether there is an economic employment of productive resources, you have left very little of the sovereignty of the country.

Mr. BROWN. I submit, sir, that the explicit words of this article are that no contracting party shall be required to withdraw or modify its restrictions on the ground that a change in the policies would render unnecessary the restrictions which it is applying. And neither the contracting parties nor any contracting party can interfere or tell a member what it should do in its internal policies. This is an undertaking on the part of countries that they are going, in good faith, to try to get themselves back on a sound basis as rapidly as they can.

Senator MILLIKIN. Now, that is exactly what I am talking about, Mr. Brown. We are laying out a principle here that the contracting parties shall strive to make an economic employment of productive resources. Now, let us say that that is highly desirable. Do you deny that a contracting party, if it wanted to, for whatever reason it wanted to, should have the right to make an uneconomic employment of its productive resources? We are making uneconomic employment of many of our productive resources, and so are all of the countries.

Now, have these contracting parties now evolved this thing to the point where each of the contracting parties is going to observe whether the other is making a proper economic employment of its productive resources?

Does that not become a matter of interest to all the contracting parties?

Mr. BROWN. Well, you stated a moment or so ago that this would mean that the contracting parties could observe what each other are doing internally. I think they do that now. They watch what is going on.

Senator MILLIKIN. But this is an undertaking though. There is a vast difference, I suggest to you, Mr. Brown, between our observing something because it suits us to observe it, and observing something because we are required to observe it.

There is a vast difference between being observed because someone without any right to observe us does so, and the other fellow being compelled to do so.

Mr. BROWN. This is a case where a country is in a balance-of-payments difficulty, and they would undertake to try to get themselves back on their feet on a sound basis as rapidly as they can. It is not a

firm commitment. They have got to consider the need for doing it. It is a factor they have to take into consideration. It is a commitment that they voluntarily take. And it is something that I should think they would want to.

Senator MILLIKIN. Under older conceptions of soverignty, perhaps, does not a nation have a right, if it wants to, to advance its economy, or retard it economy by bad employment of its productive resources?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Of course it has. Now, here we have set a new international goal, I suggest, and some new international commitments, where each of us, joining in this agreement, is going to become intensely interested in how the other fellow employs his productive resources. And I suggest that that is a very, very wide departure from conceptions of sovereignty that have existed heretofore.

Now we come to (iii), a part of paragraph (c). [Reading:]

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

Does that not set up an obligation that sort of jackpots this whole scheme that you have in here?

Mr. BROWN. I am not qute sure as to the significance of the verb you used, Senator.

Senator MILLIKIN. Well, it seems to me that we are all tossing our independence, as to matters that have all been subject to our own control, into the jackpot of this agreement.

Mr. BROWN. This is an undertaking that we were very anxious to get, that countries which were employing restrictions for balance of payments reasons would, where it was practicable for them to do so, apply them in the way which would have the least adverse effect on our trade. Now, in applying these restrictions, there are many different forms they can take and there are many things they can apply to, and there are some cases where it can be done in a manner which is extremely harmful to our trade interests or some other country's trade interests.

Senator MILLIKIN. Yes.

Mr. BROWN. And this simply says that those who are putting on the restrictions will try to make them the least troublesome possible. And that is just the same as all of these provisions about simplifying customs regulations and keeping fees down to the reasonable minimum and not making unreasonable requirements or obstacles to the movement of goods.

Senator MILLIKIN. Let us get into some of the broader implications of that.

Mr. BROWN. The word "unnecessary" is involved; "to avoid unnecessary damage."

Senator MILLIKIN. Now, without this provision, a nation would have the right to take in any import that it wanted to, or exclude any any import that it wanted to. Right?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. This provision, if the intent of it is met, prevents that. Is that right?

Mr. BROWN. Yes, sir. And we want it to.

Senator MILLIKIN. Now, let us suppose that it is a good thing for us to do that. That still begs the question as to whether you have

the right, in this kind of an agreement, to reverse the policies of the world in matters of that kind.

But here again, this is what I want to bounce against you. Here again, you are giving every one of the contracting parties the right to sit in judgment on whether some other contracting party is handling its internal economic affairs so that the repercussions do not injure a contracting party.

Mr. BROWN. I would not agree with that, Senator. I would say that this is a simple act of international good manners, and that any country that exports to another country has an interest now, without this agreement, in the way restrictions are applied upon its exports, and would consult with the other country and ask them not to do unnecessary damage to the trade. And if such representations were made to us, we would be receptive to them now.

Senator MILLIKIN. I think this goes much broader than merely an Emily Post dictum. I think here you are transforming an interest into a right. To the extent that you do not transform interests into rights in here, you are doing futile things. In other words, why should not any nation, under the laws existent prior to this agreement, if this agreement changed the law—why should not any country be at liberty to handle its imports as it pleases, even though there might be some damage to other countries?

Mr. BROWN. Because that course of action, Senator, has proved in the past that it leads to economic warfare and to retaliation and to the contraction of trade and to very many undesirable results.

Senator MILLIKIN. Let us assume that is correct.

Mr. BROWN. And that is the reason why a nation should not do that.

Senator MILLIKIN. All right. Let us assume that is correct, and let us say that you have propounded a very fine ethic here. Do you not think that it might be well to let Congress decide whether we want to create this new set of rights?

Mr. BROWN. Congress has set the policy. Congress has authorized our participation in the United Nations. It has followed and adopted a policy of cooperation and consultation and working with these other countries, in a great many realms, in political and economic and financial and food and agricultural and aviation and otherwise. It seems to me that the Congress has said that this country should take the course of consultation and cooperation in this field as well as in others, Senator. And we feel that we are carrying out that policy.

Senator MILLIKIN. But you were not set up as the agent of Congress to enforce all of these policies all the way along the waterfront.

Mr. BROWN. No, sir. We are limiting it to this particular field.

Senator MILLIKIN. You were limited to doing those things in the field where you have been granted power by the United State Congress. Correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And so the issue still remains whether you have exceeded your powers.

I think you have already stated that there are novel provisions in this article. Correct?

Now we come to 4 (a). [Reading:]

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 subparagraph to indicate in advance the choice or timing of any particular measures which it may ultimately determine to adopt.

Now, once more I bring to your attention that a balance of payment difficulty is the symptom, is the result, of the entire management of the economy of a country, is the result of fiscal mismanagement sometimes, and sometimes is the result of unavoidable things. But nevertheless, you reach that final symptom, which is an unbalance of trade which presents real difficulties, which is merely a symptom which runs across your whole economy, runs across your whole fiscal management, runs across your whole currency system.

Now, I suggest to you that you do not have the right, out of the authority that has been granted to you by Congress, to legislate in that field. You are injecting yourself here into the management of the internal economy of a country.

Mr. BROWN. Senator, I am sorry. I still do not agree with you on that point. It seems to me that when you enter into an agreement which has its purpose to expand the trade between a number of countries which are parties to the agreement, to limit the restrictions which those countries place upon that trade, to make effective the tariff concessions which they grant to each other, you must have in that agreement something to deal with the problem of quotas.

Under today's conditions, circumstances require the use of quotas, because of the balance-of-payments difficulties that so many countries are in, for the reasons which you describe; some because of their own fault; others because of the force of circumstances. What this article seeks to do is simply to say that there will be a limitation upon the arbitrary and unjustified use of the restrictions which this agreement is trying to get rid of.

Senator MILLIKIN. Could this agreement be construed as requiring any country to embargo its exports to any other country, to keep that country from falling into an adverse balance of trade or to keep that country from intensifying its adverse balance of trade?

Mr. BROWN. No, sir.

Senator MILLIKIN. Nothing of that kind in there?

Mr. BROWN. No, sir.

Senator MILLIKIN. How did you miss that? It is one-half of your problem.

Did I put you under a sense of shame then?

I am just wondering about that. Under the nature of things which you have described in this article, our exportations are contributing to these unbalances in trade.

Mr. BROWN. They are also contributing to their correction, Senator.

Senator MILLIKIN. Yes; to the extent that what we are sending there has constructive usefulness. But that we impose no limitation upon ourselves.

Mr. BROWN. Yes, Senator; we impose a great many limitations upon ourselves.

Senator MILLIKIN. Yes; we do impose a great many limitations upon ourselves, and that enhances my curiosity as to why you did not have something of that kind in here.

Mr. BROWN. There is something of that kind in here.

Senator MILLIKIN. Well, point that out to me.

Mr. BROWN. As I pointed out, Senator, we have a little export prohibition on tobacco seed which will be required to be eliminated.

Senator MILLIKIN. You are going to take that out?

Mr. BROWN. We are going to ask you to.

Senator MILLIKIN. But I was going to ask you why you did not put the duty of embargoing on us so that we would not lead these foreign countries into further trade unbalances. Well, you did not do it, so there is no use of arguing that.

Now, as to the powers of the contracting parties in this business, down in (c) you say [reading]:

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.

Mr. BROWN. That simply says that if the party feels the need to put on a restriction for balance-of-payments difficulties which will clearly affect the trade of the other contracting parties, it may talk it over first and get agreement about it.

Senator MILLIKIN. They talk it over first. But if the talks come to nothing, then what happens? What may the contracting parties do about it?

Mr. BROWN. That was the same point which I made before in answer to your previous question. If the decision is that the use of the restriction is unjustified, then the contracting parties may authorize the withholding of obligations under the agreement to the offending party.

Senator MILLIKIN. And that, I think we are in agreement, is a very important power, irrespective of whether or not you have the right to put it into this agreement. That is a very important power.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And the use of it turns on a majority vote in an organization in which we only have 1 vote out of 23.

Now, I am very curious about paragraph 5. [Reading:]

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 favorable, or by any appropriate intergovernmental organization, to remove the underlying causes of the disequilibrium. On the invitation of the Contracting Parties, contracting parties shall participate in such discussions.

Now, there is a paragraph which clearly contemplates the United States of America. What do you intend to do about it? We have a very favorable balance of trade. And as that balance of trade increases, the disequilibriums of stricken countries abroad incrase also. What are you going to do about it?

Mr. BROWN. Talk, if asked.

Senator MILLIKIN. Just talk?

Mr. BROWN. Consult; yes, sir.

Senator MILLIKIN. And think about other measures?

Mr. BROWN. As we are constantly doing.

Senator MILLIKIN. Yes; what measures were in contemplation so far as our situation was concerned?

Mr. BROWN. I have not the slightest idea, and I do not think the people who drafted this had either. I do not know what the measures would be, Senator, and it would depend entirely on what the nature of the consultations was or what the circumstances were at the time.

Senator MILLIKIN. Could it be a measure such as, for example, that the debts of foreign countries should be forgiven?

Mr. BROWN. I am not prepared to say what kinds of things might be discussed at this meeting.

Senator MILLIKIN. Well, such a measure would redress some of the balance-of-trade disequilibriums would; it not?

Mr. BROWN. Yes, it would; I suppose.

Senator MILLIKIN. Yes. It might be a measure for a partial forgiveness of debts. Right?

Mr. BROWN. The answer literally is "Yes."

Senator MILLIKIN. It might be a measure to transform loans already made into gifts. Could it be a measure that would require us to put on export limitations?

Mr. BROWN. There would be no limitation, I assume, on the proposals that might be made at such a meeting.

Senator MILLIKIN. So you are opening up the whole subject to the inventiveness and imagination of those who—I am thinking now of our own country, which has a favorable balance of trade—you are opening up that situation, and our predominance in world trade, to all of the fantastic imaginations that the have-not countries could bring to bear.

Mr. BROWN. It is open now, sir.

Senator MILLIKIN. It is open now. But here is an invitation to go ahead with it.

Let us see what that says, again. [Reading:]

If there is a persistent and widespread application of important 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 favorable—

What are these measures, Mr. Brown? Surely that was not drawn in complete darkness. There must have been something in the minds of those who drew that paragraph. For what kind of measures might we be called upon?

Mr. BROWN. I think that what was in the minds of those who drew that paragraph was this: That conditions might develop, if trends go the way we hope they don't go, in which the situation gets worse and worse, and this type of agreement is no longer very effective; and that it might be useful to have an international consultation to see if some other steps might be taken. That is as far as, I understand it, as this goes. There are no specific measures in mind to be proposed or considered by either type of country described in this paragraph.

Senator MILLIKIN. But there was enough apprehension of something in somebody's mind in a situation where we are directly concerned, and most importantly concerned, to induce the writing of that paragraph. And I am somewhat dumfounded that you do not have a better explanation of that than you have given.

Can you find out something about that for us, just what was the inspiration for it?

Mr. BROWN. I can tell you categorically that there were no specific measures in mind on this thing.

Senator MILLIKIN. Somebody just thought, "Well, things may change, so in the interests of having a good elastic agreement we will just put an elastic clause in here that will give us something to work on"?

Mr. BROWN. I think so. And I would be glad to check back on it further, Senator, and if I have anything more I will give it to you.

Senator MILLIKIN. I wish you would. Because there is a lot of opinion that floating around in the background are measures which might be taken to let a lot of nations that owe us money off the hook, more generously than we have already let them off of the hook.

Mr. BROWN. I have heard no such suggestion made during the course of my connection with any of these negotiations.

Senator MILLIKIN. Would you mind making another inquiry to see whether anything specific was in mind?

Mr. BROWN. I would be very glad to, Senator.

Senator MILLIKIN. Now, coming to the interpretative provisions [reading]:

> The phrase "notwithstanding the provisions of paragraph 2 of this Article" has been included in the text to make it quite 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 an 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 provisions for export controls in certain parts of the Agreement, e. g. in Article XX, fully meet the position of these economies.

Now, it is a fact that all over this world the exchanges are in serious disequilibrium. That is a fact, is it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What nations are creditor nations other than the United States?

Mr. BROWN. Switzerland, I believe.

Senator MILLIKIN. Switzerland?

Mr. BROWN. Yes; you mean creditors vis-à-vis the United States, or creditors generally?

Senator MILLIKIN. Generally.

Mr. BROWN. I would have to check that. I am not sure but what the British may not be a creditor nation in one very real sense, because they have very extensive sterling loans. But if you mean what countries have a favorable balance of trade in hard currencies, which I thought perhaps was what you were getting at, I think you could say the United States and Switzerland and Venesuela and Cuba and Saudi Arabia and Iraq, perhaps—I am not sure—and not many more.

Senator MILLIKIN. All of the others would have a very intense interest in the promotional measures that might relieve their situation. Do you not think that is correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now, what part of this article do you intend to bring back to Congress?

Mr. BROWN. None.

Senator MILLIKIN. Nothing at all?

Mr. BROWN. No, sir; this is an exception to the rule on the use of quantitative restrictions.

Senator MILLIKIN. You feel that here also you have quite a few novel provisions?

Mr. BROWN. Yes, sir; this is entirely new, because of the fact that it deals with an entirely new set of circumstances.

Senator MILLIKIN. And because it is new, I think that probably excludes my usual question as to the derivations.

Mr. BROWN. I think I would say this, Senator: That if I am correct in my interpretation that we have authority to deal with quotas at all, then it would follow that we have authority to agree to exceptions to the rules for dealing with quotas. I think we get back to the point we discussed in connection with the previous article.

Senator MILLIKIN. Well, I would suggest that even in carving out an exception you can enter upon new substantive law, and it might have the guise of procedure. Have you any further comments on that article?

Mr. BROWN. I don't think so, Senator.

Senator MILLIKIN. Let us consider article XIII, entitled "Nondiscriminatory Administration of Quantitative Restrictions." [Reading:]

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.

That is simply intended to prevent discrimination as far as those particular restrictions are concerned, is it not?

Mr. BROWN. Yes, sir. You take Article XI and Article XIII, and they are the statement of the general rule and the principle. Articles XII and XIV are the transitional period exceptions.

Senator MILLIKIN (continues reading):

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;

(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 subparagraph (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 products. 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 licenses 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 licenses granted over a recent period and the distribution of such licenses 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 subparagraph.

(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 any other provisions established unilaterally relating to the allocation of an adequate quote 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.

Is this similar to Article XXII of ITO?

Mr. BROWN. Yes, sir; only this article does not include paragraph 3 (d) of Article XXII.

Senator MILLIKIN. But is the language the same to the extent that they run together?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Will you explain that article, please?

Mr. BROWN. Yes, sir. This is, as I say, the counterpart to the initial rule against quotas. If you do use quotas you should not discriminate as between sources of supply. It also goes on to say that if you are going to limit imports it is preferable to do it by the use of a definite quota system which is published and can be known and the amounts set forth in advance, than it is by simply the operation of an import licensing system, where you don't have definite knowledge and definite publicity as to the amounts involved, as to the criteria used, and that type of thing.

So that paragraph 2 states a preference. If you must use a quantitative restriction, it would be preferable, from that point of view, to do it by a known published quota, than to do it by a licensing system, which could be more easily abused.

It also says that if you are imposing a quantitative restriction you probably, since it is a limitation, will have to allocate as between countries to see that somebody doesn't rush in at the beginning and get the whole quantity. And if you do that, it should be done on the basis of a previous representative period or some equitable share as between the different importing countries.

Then it provides for complete publicity to be given to the administration of any such system, so that the traders can know where they stand. And it provides for consultation in the event that any country to which a share in a quota has been allocated feels that it has been unfairly treated in the granting of that share.

Senator MILLIKIN. How does that remedy finally culminate? Who establishes the remedy?

Mr. BROWN. In the last situation which I referred to?

Senator MILLIKIN. Yes. Do the contracting parties make the determination?

Mr. BROWN. If there can't be agreement; yes, sir.

May I just check that, please?

Senator MILLIKIN. Yes.

Mr. BROWN. No; I was incorrect, Senator. There is no provision in this paragraph for a final determination of that by anyone. There is only a provision for consultation with respect to it.

Senator MILLIKIN. Then what would be a country's remedy?

Mr. BROWN. They could, I suppose, bring a complaint under the general provision dealing with nullification and impairment, which occurs later in the agreement.

Senator MILLIKIN. And under the provisions to which you have just referred, the contracting parties could give relief. What might the relief consist of?

Mr. BROWN. It would be the same relief as we discussed in connection with the previous section; that is, authorizing the complaining party to withhold or to suspend obligations to the offending party under the agreement; and if the offending party feels that is too drastic, or if he is unsatisfied, he may then withdraw on short notice.

Senator MILLIKIN. In the absence of an article of this kind, a country applying import restrictions could take the imports that it wanted from any country that it wanted to take them from.

Mr. BROWN. Yes.

Senator MILLIKIN. Under the provisions of this article, the imports which are taken are distributed to the parties of the agreement according to their historic supply of those particular articles to the particular importing country. Correct?

Mr. BROWN. That is the general principle, but if you have a new supplier coming into the picture, that would have to be taken account of.

Senator MILLIKIN. Is this not legislation of rather significant character?

Mr. BROWN. This is the same type of article as the most-favored-nation article. It means that you do not discriminate against the trade of any particular country, that you give as far as possible equal

treatment to the trade of all countries. That is a principle which is specifically embodied in the Trade Agreements Act and has been the policy of this country since 1923, as I understand it.

Senator MILLIKIN. But have we not heretofore, even though maintaining a quota, reserved the right to take our imports of the commodity affected by the quota from any source that we chose to?

Mr. BROWN. I don't know of any specific reservation of that kind, and I know that in the administration of any quotas that we have had, whether they be absolute or tariff quotas, we have not done so. We have followed this same principle.

Senator MILLIKIN. Then, when the goods come here, we set up a mechanism for distributing to our own importers in this country. Is that right?

Mr. BROWN. No, sir. But if we assume that we were using a quota, we would simply establish the amount that may come in; and then our private importers go out and buy up to that quantity.

Senator MILLIKIN. Our private employers might have, reasonably or unreasonably, a desire for the imports of some given country. This would serve as a restriction on that desire, would it not?

Mr. BROWN. But presumably other importers would have a desire for the imports of another country.

Senator MILLIKIN. You are assuming that taking all of those desires together they would balance themselves in the same way that your import allocations would balance?

Mr. BROWN. That is why we put in the provision that a count would have to be taken; that although the general principle was the historical test, attention would have to be given to changes in demand, changes in style, and that kind of thing.

Senator MILLIKIN. You think that that is a practical provision so far as satisfying the demands of our domestic importers is concerned?

Mr. BROWN. Yes, sir; the administration of any quota is a difficult thing. That is one of the reasons quotas are so undesirable, because they always work hardship on somebody. It is always a very difficult situation for the organizations that have to administer them.

Senator MILLIKIN. Now, as to this article, do you intend to bring any part of it back to Congress?

Mr. BROWN. No, sir.

Senator MILLIKIN. None at all. What are your precedents for this article?

Mr. BROWN. This article has appeared in various forms, or at least large parts of it, in various trade agreements. I can refer you again to the Canadian agreement, which I select simply because it is a fairly recent and important trade agreement, which provides, in article III, that if imports of any article into either country should be regulated either as regards the total amount permitted to be imported—that is an absolute quota—or as to the amount permitted to be imported at a specified rate of duty—that is a tariff quota—and if shares are allocated to countries of export [reading]:

> the share allocated to the other countries shall be based upon a proportion of the total imports of such article from all foreign countries supplied by that country in past years, account being taken so far as practical in appropriate cases of any special factors which may have affected or may be affecting the trade in that article.

That is substantially what this article says.

Senator MILLIKIN. Does the act of 1930—I am not talking about section 350—contain provisions for distributing our imports of commodities that are under quota in the manner provided in this agreement?

Mr. BROWN. I will have to take advice on that one, sir.

I am advised that there is nothing in the tariff act on that subject.

Senator MILLIKIN. Your precedents have developed under section 350?

Mr. BROWN. Yes. And also there are similar provisions in treaties of friendship, commerce, and navigation.

Senator MILLIKIN. Of course, the distinction between those and what we are talking about is that those treaties were brought back for the approval of the Senate.

Mr. BROWN. That is correct, sir. The Senate approved the principle.

Senator MILLIKIN. The Senate approved the treaty; when it did, and under the circumstances in which it did. I doubt very much, when you say that the Senate approved a treaty, that that is authority to an administrative agency to go out and make other treaties to the same effect without bringing them back to the Senate.

The CHAIRMAN. We have arrived at the hour of 5 o'clock. Are you at a convenient point to suspend?

Senator MILLIKIN. Yes. I would like to get to my office.

The CHAIRMAN. And can you come back tomorrow, Mr. Brown?

Mr. BROWN. Yes, sir.

The CHAIRMAN. Tomorrow is Saturday, and we probably will not continue longer than noontime.

The committee will be in recess until tomorrow morning at 10 o'clock.

(Thereupon, at 5 p. m., the committee recessed until Saturday, February 26, 1949, at 10 a. m.)

EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT

SATURDAY, FEBRUARY 26, 1949

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to adjournment, in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senator George (chairman), Millikin, Taft, and Martin.

The CHAIRMAN. All right, Senator Millikin. Are you ready to proceed?

Senator MILLIKIN. Mr. Brown, when we were discussing article XII, I questioned you as to what might be the implications of paragraph 5 of that article, which reads:

> 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 favorable, or by any appropriate intergovernmental organization, to remove the underlying causes of the disequilibrium. On the invitation of the Contracting Parties, contracting parties shall participate in such discussions.

You could not give me any definite information as to what was in mind?

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE—Resumed

Mr. BROWN. No, sir. I think I stated that there was nothing specific in mind, but if a really very difficult situation arose and things got very bad, this simply would mean that the parties to the agreement would come together and discuss it and see what they could do about it. There were no specific proposals in mind that we knew of, and I have checked on that, and I think that is correct.

Senator MILLIKIN. I was directing my questions primarily to find out what measures might be taken that would affect our position as a creditor nation. I now bring to your attention some remarks of Lord Keynes in the House of Lords, in a talk which he made there on May 23, 1944. He was discussing the fortchoming Monetary Fund. He said [reading]:

> There is another advantage to which I will draw your Lordships' special attention. A proper share of responsibility for maintaining equilibrium in the balance of international payments is squarely placed on the creditor countries. This is one of the major improvements in the new plan. The Americans, who are the most likely to be affected by this, have, of their own free will and honest purpose,

offered us a far-reaching formula of protection against a recurrence of the main cause of deflation during the interwar years, namely, the draining of reserves out of the rest of the world to pay a country which was obstinately borrowing and exporting on a scale immensely greater than it was lending and importing.

Under clause 6 of the plan a country engages itself, in effect, to prevent such a situation from arising again by promising, should it fail, to release other countries from any obligation to take its exports, or, if taken, to pay for them. I cannot imagine that this sanction would ever be allowed to come into effect.

By no other means than by lending, the creditor country will always have a way to square the account on imperative grounds of its own self-interest.

I thought you might want to cogitate upon that as a possible explanation of the existence of that undefined clause.

Mr. BROWN. May I ask you again, sir, what was the date of that? 1944, did you say?

Senator MILLIKIN. 1944.

Mr. BROWN. And it was referring to the fund?

Senator MILLIKIN. Referring to the fund.

Mr. BROWN. Yes, sir. I thought so.

Senator MILLIKIN. And you might read that whole speech, if it has gone out of your mind. There are many, many interesting references in it.

Our adherence to the fund was approved by the President on July 31, 1945, and the debates on the fund had already commenced; and this is Lord Keynes' explanation to the House of Lords as to what was in the offing.

I believe we completed article XIII, did we not?

Mr. BROWN. I think so, Senator.

Senator MILLIKIN. Article XIV is "Exceptions to the Rule of Nondiscrimination."

Senator Taft will remember very well what we have just developed. In article XII of this general agreement, the so-called Geneva multilateral trade agrement, there was a clause as follows [reading]:

> 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 favorable, or by any appropriate intergovernmental organization, to remove the underlying causes of the disequilibrium.
>
> On the invitation of the Contracting Parties, contracting parties shall participate in such discussions.

When we were considering article XII, I was questioning Mr. Brown as to what measures were in mind, so far as a creditor country is concerned. Mr. Brown could not identify any, and I have just finished reminding Mr. Brown of some remarks which Lord Keynes made to the House of Lords.

(Senator Millikin thereupon reread the remarks of Lord Keynes, as heretofore recorded.)

Senator MILLIKIN. I was suggesting to Mr. Brown that this unidentified and unspecified language was designed to accommodate the Keynes theory.

Now we come again to article XIV, entitled "Exceptions to the rule of nondiscrimination." [Reading:]

> 1. (a) The Contracting Parties recognize that the aftermath of the war has brought difficult problems of economic adjustment which do not permit the immediate full achievement of non-discriminatory administration of quantitive

restrictions and therefore require the exceptional transitional period arrangements set forth in this paragraph.

(b) A contracting party which applies restrictions under Article XII may, in the use of such restrictions deviate from the provisions of Article XIII in a manner having equivalent effect to restrictions on payments and transfers for current international transactions which that contracting party may at that time apply under Article XIV of the Articles of Agreement of the International Monetary Fund, or under an analogous provision of a special exchange agreement entered into pursuant to paragraph 6 of Article XV.

(c) A contracting party which is applying restrictions under Article XII and which on March 1, 1948, was applying import restrictions to safeguard its balance of payments in a manner which deviated from the rules of nondiscrimination set forth in Article XIII may, to the extent that such deviation would not have been authorized on that date by subparagraph (b), continue so to deviate, and may adapt such deviation to changing circumstances.

(d) Any contracting party which, before July 1, 1948, has signed the Protocol of Provisional Application agreed upon at Geneva on October 30, 1947, and which by such signature has provisionally accepted the principles of paragraph 1 of Article 23 of the Draft Charter submitted to the United Nations Conference on Trade and Employment by the Preparatory Committee, may elect, by written notice to the contracting parties before January 1, 1949, to be governed by the provisions of Annex J of this Agreement, which embodies such principles, in lieu of the provisions of subparagraphs (b) and (c) of this paragraph. The provisions of subparagraphs (b) and (c) shall not be applicable to contracting parties which have so elected to be governed by the provisions of Annex J; and conversely the provisions of Annex J shall not be applicable to contracting parties which have not so elected.

(e) The policies applied in the use of import restrictions under subparagraphs (b) and (c) or under Annex J in the postwar transitional period shall be designed to promote the maximum development of multilateral trade possible during that period and to expedite the attainment of a balance-of-payments position which will no longer require resort to the provisions of Article XII or to transitional exchange arrangements.

(f) A contracting party may deviate from the provisions of Article XIII, pursuant to subparagraphs (b) or (c) of this paragraph, or pursuant to Annex J, only so long as it is availing itself of the postwar transitional period arrangements under Article XIV of the Articles of Agreement of the International Monetary Fund, or of an analogous provision of a special exchange agreement entered into under paragraph 6 of Article XV.

(g) Not later than March 1, 1950 (three years after the date on which the International Monetary Fund began operations) and in each year thereafter, the Contracting Parties shall report on any action still being taken by contracting parties under subparagraphs (b) and (c) of this paragraph or under Annex J. In March 1952, and in each year thereafter, any contracting party still entitled to take action under the provisions of subparagraph (c) or of Annex J shall consult the Contracting Parties as to any deviations from Article XIII still in force pursuant to such provisions and as to its continued resort to such provisions. After March 1, 1952, any action under Annex J going beyond the maintenance in force of deviations on which such consultation has taken place and which the Contracting Parties have not found unjustifiable, or their adaptation to changing circumstances, shall be subject to any limitations of a general character which the contracting parties may prescribe in the light of the contracting parties' circumstances.

(h) The Contracting Parties may, if they deem such action necessary in exceptional circumstances, make representations to any contracting party entitled to take action under the provisions of subparagraph (c) that conditions are favorable for the termination of any patricular deviation from the provisions of Article XIII, or for the general abandonment of deviations, under the provisions of that subparagraph. After March 1, 1952, the Contracting Parties may make such representations in exceptional circumstances, to any contracting party entitled to take action under Annex J. The contracting party shall be given a suitable time to reply to such representations. If the Contracting Parties find that the contracting party persists in unjustifiable deviation from the provisions of Article XIII, the contracting party shall, within sixty days, limit or terminate such deviations as the Contracting Parties may specify.

2. Whether or not its transitional period arrangements have terminated pursuant to paragraph 1 (f), a contracting party which is applying import restrictions under Article XII may, with the consent of the Contracting Parties, temporarily deviate from the provisions of Article XII in respect of a small part of its

external trade where the benefits to the contracting party or contracting parties concerned substantially outweigh any injury which may result to the trade of other contracting parties.

Senator TAFT. What article is that?

Senator MILLIKIN. That is article XIV that we are dealing with.

Mr. BROWN. Excuse me, Senator Millikin. I think the document which Senator Taft is looking at now has been amended.

Senator TAFT. It has some of the same ideas, but not the same words.

Mr. BROWN. That has been amended subsequently.

Senator TAFT. That is what I am trying to get. I am trying to get the last copy.

Mr. BROWN. It is not all in one piece of paper, Senator. The set of loose sheets that Mrs. Springer gave you has the complete up-to-date version of that article in it.

Senator TAFT. This says it was the final act adopted at the conclusion of the second session of the Preparatory Committee on Trade and Employment.

Mr. BROWN. That is right, sir. That was subsequently modified by the parties to the agreement.

Senator TAFT. At another meeting?

Mr. BROWN. At another meeting.

Senator MILLIKIN. In this connection, Mr. Brown, this article XIV, in its original form was replaced by article 23 of ITO, was it not, under special protocol of March 24, 1948?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That is according to State Department Publication 3229.

Mr. BROWN. That is correct.

Senator TAFT. May I ask a question?

What I do not understand is: These agreements made under the Reciprocal Trade Agreements Act have the effect of law. And is there no place where that law is printed as soon as it is made, so that the people can know what it is? Can a law of the United States be handled in this way so that nobody knows what it is?

Mr. BROWN. No, sir. Senator Millikin has a document in which the whole thing is set out in one place.

Senator TAFT. Why do I get it in this form? As I understand it, if article 23 of the charter replaces article XIV, and if it is a valid agreement at all, it becomes part of the laws of the United States for all practical purposes, under the Reciprocal Trade Agreements Act that we passed last year. Is it not put somewhere in the Federal Register, or somewhere where people can find out what the law is?

Mr. BROWN. Well, sir, I realize it is inconvenient to have it in two places.

Senator TAFT. It is not only inconvenient; it is contrary, it seems to me, to all the laws we have as to the Federal Register and the regulations of the departments, the Administrative Procedure Act, and all the rest of it.

Senator MILLIKIN. Mr. Brown, is this not the fact: That these amendments are filed with the United Nations Secretariat, and that the publications that we have on this subject are put out by the United Nations?

Mr. BROWN. Yes, sir. We have also put them out, too.

Senator MILLIKIN. But the official material comes from the United Nations.

Mr. BROWN. Yes, sir. It is a United Nations document.

Senator MILLIKIN. The GATT itself is registered there. The various amending protocols are registered there. The official material is supposed to come from the United Nations.

But it does not come.

Senator TAFT. It seems to me that the United Nations does not have anything to do with it, as far as we are considering it, from the legislative standpoint. It gets its validity from the Reciprocal Trade Agreements Act of 1948. And those agreements, it seems to me, become part, for all practical purposes, of the laws of the United States. They do not seem to be filed anywhere or registered in any way so that anybody knows what they are.

Mr. BROWN. It is published in the Department's treaties and agreements series, and that just has not come out in print yet.

Senator TAFT. Well, how long ago was this protocol made substituting article 23 for article XIV, for instance?

Mr. BROWN. That was a year ago.

Senator TAFT. A year ago, yes.

Mr. BROWN. It did not become effective until January 1 of this year, Senator.

Senator TAFT. But there was plenty of time to print it, in the Federal Register, or somewhere else where people who have something to do with it can find out what it is, I should think.

The CHAIRMAN. Is not article 23 in the ITO?

Mr. BROWN. Yes, sir.

The CHAIRMAN. And the ITO has not yet been approved.

Senator TAFT. But the point was that by protocol article XIV of GATT has been replaced by article 23 of ITO, as I understand it. So that article 23 becomes part of the reciprocal trade agreements that have been made, without any action under ITO.

Is that not correct? That is my understanding.

Mr. BROWN. Yes, sir. The whole document is in the record, Senator, in the galley of this proceeding.

Senator TAFT. But if this was all done a year ago, why has it not been printed somewhere, so that people can find out what reciprocal trade agreements have been made and what their terms are, in English? They affect every importer and exporter of the United States, directly or indirectly. It seems to me that if we are going to delegate the power to make law, which is what this reciprocal trade agreement is, then the moment that law is made by the Department of State it ought to be filed somewhere as an official document, in its final terms. I cannot understand the carelessness of the Department in not undertaking to do such a thing.

Mr. BROWN. I can't answer as to all the administrative problems, the printing problems, that are involved, but I know that they are very real; and I know that these documents have all been made public and, as Senator Millikin has said, they are all officially registered with the United Nations.

Senator TAFT. I do not care anything about the United Nations. We have no relations with the United Nations so far as the Finance Committee is concerned, or the tariff laws of the United States. That

does not excuse any failure to get some official statement of what the law is just as soon as it is the law. And I think we have general laws requiring that that be done. We certainly have as to the regulations of ordinary administrative bureaus, and this has about the same general legal status. They have to be published in the Federal Register, promptly and completely.

Senator MILLIKIN. They had, Senator, a session of the contracting parties at Geneva from mid-August to September 15, 1948, at which a number of amendments were adopted. Those amendments, I assume, were certified to the United Nations, but the texts are not yet available to the public.

Mr. BROWN. I would respectfully say, Senator, that the texts were published immediately after the agreement by the Department of State.

Senator MILLIKIN. But there is no general distribution available.

Mr. BROWN. Yes, sir. They are made available to the press and to Members of Congress and to everybody. They have not been compiled in one document.

Senator MILLIKIN. But here you are unable to supply a copy to Senator Taft.

Mr. BROWN. It is in the record, sir.

The CHAIRMAN. It is just that they have not been compiled in a single copy.

Senator MILLIKIN. We have an even greater confusion. Yesterday it developed that there is a provision in GATT which allows each country to determine which provisions of GATT are in accord with its own domestic law. So we were questioning to find out what part had been adopted by each country and what part was in abeyance by each country, and what part had been rejected by each country. And there is no compilation of that any place.

So that no one at this moment, except possibly a few specialists who have the thing in their heads know what is effective in this agreement.

Senator TAFT. Does that not affect anybody who wants to export from the United States to these countries? Ought they not to know that at once? I mean, if we are going to encourage export trade?

Senator MILLIKIN. I should think so.

The CHAIRMAN. I suppose they could go to the customs officials. They would tell them.

Senator TAFT. From what Senator Millikin says, they cannot tell them. They do not know what these countries have rejected or have not rejected. And they cannot tell what tariff rates are in effect in these countries, I suppose.

Senator MILLIKIN. I have information which I have not checked that the United Nations officials have received a copy with no identifying numbers, of the September 1948 changes, at that meeting to which I referred, but that the United Nations officials say this was only for the United Nations, and was not intended to be a public document.

Mr. BROWN. The document to which you refer is a Department of State press release of November 1948.

Senator TAFT. I take it that now we have reached the stage of Government legislation by press release. That has been the tendency of Government for the last 10 years, but I did not think that it would be frankly stated that press releases now determine what the law is.

Mr. BROWN. I was addressing myself, sir, to the point Senator Millikin made, that this document was not for public information.

Senator MILLIKIN. By the United Nations, I said. The United Nations, according to my information, takes the position that these amendments were not intended to be a public document.

Mr. BROWN. I would be very interested in checking that, sir.

Senator MILLIKIN. Article VI of GATT was replaced by ITO article 34; was it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Article XVIII was replaced by article 1; was it not?

Mr. BROWN. There were four replacements.

Senator MILLIKIN. Taken out of ITO and put into GATT.

Mr. BROWN. Yes. Article VI, article XVIII, article XIV, and the one on customs areas, XXIV.

Senator MILLIKIN. And article III was replaced by ITO article 18; was it not?

Mr. BROWN. Yes, sir.

Senator TAFT. I do not quite understand. When was that done, and how?

Senator MILLIKIN. That was done in connection with these amending meetings that they held. Some of it was done in this meeting on the day that I mentioned to you.

Senator TAFT. Well, when did the President exercise the power given him by the Reciprocal Trade Agreements Act? When did he actually exercise that power to make reciprocal-trade agreements, of which GATT, I take it, is a part? Am I correct in supposing GATT was a part of those reciprocal-trade agreements?

Mr. BROWN. Yes, sir.

Senator TAFT. When did he make those agreements? What date?

Mr. BROWN. He put them into effect at varying times.

Senator TAFT. You mean varying times in different countries?

Mr. BROWN. Yes, sir. Because the other countries were not all able to put the agreement into effect at the same time. Therefore we did not put the agreement into effect for the United States vis-à-vis another country until it had also put it into effect vis-à-vis us.

The CHAIRMAN. Did he issue a proclamation?

Mr. BROWN. Yes, sir, in each instance he issued a formal proclamation.

Senator TAFT. Then was this putting of ITO into this thing subject to those proclamations done before, or when?

Mr. BROWN. It was subsequent to some and before others. That was done by proclamation.

Senator TAFT. What was the proclamation for the first country?

Mr. BROWN. I don't know the date of the first proclamation, but it put the agreement provisionally into effect for, I think, eight of the countries, as of the 1st of January, 1948. That comprised the bulk of the trade involved in the agreement.

Senator TAFT. Then, when you came along and substituted these articles of ITO for the other things in GATT, what did you do? Did you issue another proclamation for those countries?

Mr. BROWN. When any agreement is amended, it is necessary to issue another proclamation giving effect to the amendment.

Senator TAFT. And where are those proclamations? Are they published in the State Department?

The CHAIRMAN. I thought they were published in the Register.

Senator TAFT. They must be published in the Federal Register.

Mr. BROWN. Some of them are published in the "Treaties and Other International Acts" series. They are all made public at the time they go into effect.

Senator TAFT. What is that? A publication of the State Department?

Mr. BROWN. Yes, it is the regular publication in which all agreements are contained.

Senator TAFT. And each time, whenever you substituted these other sections, that was regarded as an amendment of a reciprocal trade agreement with a particular country? Is that it?

Mr. BROWN. Yes, sir. There was very wide publicity given to them in business circles and business publications and business journals.

Senator TAFT. And you have the power to make a 3-year agreement and then amend it from time to time, do you?

Mr. BROWN. Yes, sir.

Senator TAFT. Do you renew the whole agreement and extend, it then, 3 years from the time you make the agreement?

Mr. BROWN. No, sir. The terms of the agreement provide that it runs for 3 years and then continues unless denounced on 6 months' notice.

Senator TAFT. But it may be amended by the parties at any time?

Mr. BROWN. Yes, sir.

Senator TAFT. And each time you substitute one of these the other party has to do the same, and they have to notify you that they agree that it goes into effect?

Mr. BROWN. Yes, sir. We do not put it into effect until we know that the other parties are going to.

Senator MILLIKIN. Mr. Brown, has not the President adopted the exact language of part 1 (a) of section F of article 40 of the Charter on International Trade Organization, which prescribes the procedure for taking an escape, and which may be found in part of Executive Order 9832, Federal Register, February 26, 1947?

Mr. BROWN. I would prefer to put it the other way, Senator Millikin: that the charter has taken the language of the President's escape clause.

Senator MILLIKIN. They are both the same.

Mr. BROWN. They are the same. The origin of article 40 is the escape clause which we developed for our trade agreement.

Senator MILLIKIN. Particularly the Mexican Trade Agreement.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Proceeding with the reading of article XIV [reading]:

2. Whether or not its transitional period arrangements have terminated pursuant to paragraph 1 (f), a contracting party which is applying import restrictions under Article XII may, with the consent of the Contracting Parties, temporarily deviate from the provisions of Article XIII in respect of a small part of its external trade where the benefits to the contracting party or contracting parties concerned substantially outweigh any injury which may result in the trade of other contracting parties.

3. The provisions of Article XIII shall not preclude restrictions in accordance with the provisions of 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 until December 31, 1951, by measures not involving substantial departure from the provisions of Article XIII, another country whose economy has been disrupted by war.

4. A contracting party applying import restrictions under Article XII shall not be precluded by Articles XI to XV, inclusive, of this Agreement from applying measures to direct its exports in such a manner as to increase its earnings of currencies which it can use without deviation from the provisions of Article XIII.

5. A contracting party shall not be precluded by Articles XI to XV of this Agreement from applying quantitative restrictions.

(a) having 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) under the preferential arrangements provided for in Annex A of this Agreement, pending the outcome of the negotiations referred to therein.

Now, I have attached here, prior to coming to annex J, a portion headed "(from Annex I)."

What is the derivation of that, Mr. Brown?

Mr. BROWN. That is, I think, an interpretative note. May I look at it, please?

Senator MILLIKIN. Yes.

Mr. BROWN. Yes; they just forgot to put the little heading in.

Senator MILLIKIN. This is an interpretative note. [Reading:]

Paragraph 1 (g).

The provisions of paragraph 1 (g) shall not authorize the Contracting Parties to require that the procedure of consultation be followed for individual transactions uniess the transaction is of so large a scope as to constitute an act of general policy. In that event the Contracting Parties shall, if the contracting party so requests, consider the transaction, not individually, but in relation to the Contracting Party's policy regarding imports of the product in question taken as a whole.

Paragraph 2.

One of the situations contemplated in paragraph 2 is that of a contracting party holding balances acquired as a result of current transactions which it finds itself unable to use without a measure of discrimination.

Now, then, annex J has been referred to, so I shall read it.

Annex J was adopted where and when?

Mr. BROWN. At a meeting of the contracting parties at Habana in March 1948.

Senator MILLIKIN. In March 1948.

Annex J is entitled "Exceptions to the Rule of Nondiscrimination." [Reading:]

(Applicable to contracting parties who so elect, in accordance with paragraph 1 (d) of Article XIV in lieu of paragraphs 1 (b) and 1 (c) of Article XIV.)

1. (a) 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 paragraphs 3 (a) and 3 (b) 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 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 reasonably expected to attain;

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

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

2. Any contracting party taking action under paragraph 1 of this Annex shall keep the Contracting Parties regularly informed regarding such action, and shall provide such available relevant information as the Contracting Parties may request.

3. If at any time the Contracting Parties find that import restrictions are being applied by a contracting party in a discriminatory manner inconsistent with the exceptions provided for under paragraph 1 of this Annex, 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 Annex, to the extent that it has been approved by the Contracting Parties 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 paragraph or under paragraph 4 (d) of Article XII on the ground that it is inconsistent with the provisions of Article XIII.

Interpretative Note to Annex J

It is understood that the fact that a contracting party is operating under the provisions of Part II (a) of Article XX does not preclude that contracting party from operation under this Annex, but that the provisions of Article XIV (including this Annex) do not in any way limit the rights of contracting parties under Part II (a) of Article XX.

I believe you have already stated that this article was replaced by article 23 of the Charter of the International Trade Organization under a special protocol of March 24, 1948.

Mr. BROWN. Yes, sir. This article, and the annex are substantially identical with the corresponding article and annex of the charter.

Senator MILLIKIN. Now will you be good enough to state your legal authority for this article?

Mr. BROWN. I think that the legal authority would go back to the same argument that I made with respect to the authority for article XII, which permitted deviations from the rule against the use of quotas. Because, as I explained, article XI and article XIII say the principle is no quotas and no discrimination in the administration of quotas, if you have them; and article XII and article XIV are the exceptions to those two principles which are made necessary by the difficult exchange situation in which countries find themselves today. So that the same arguments and statements which I made in answer to the same question with respect to those articles apply equally here.

Senator MILLIKIN. You base your authority squarely on the Reciprocal Trade Agreements Act of 1934?

Mr. BROWN. I base my authority squarely on the authority of the President, referred to in the legal memorandum which we gave you last year.

Senator MILLIKIN. I did not get that last. You base your authority on what?

Mr. BROWN. I would base our authority on the reasoning of the legal memorandum on that subject which we supplied to you last year. My personal feeling is that this particular subject matter of quotas and the use of them is one that is very directly related to the specific authority given in the Trade Agreements Act itself.

Senator MILLIKIN. You feel that that is sufficient?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Are you basing any part of it on the President's general powers, to which you have referred?

Mr. BROWN. I would not want to limit the authority specifically to the Trade Agreements Act, although my personal judgment is that you could.

Senator MILLIKIN. How are you getting along with the study you are making of those provisions which are based on the Reciprocal Trade Agreements Act and those which are based on the President's authority to which you have referred, and those which are of a mixed nature?

Mr. BROWN. I think that progress is being made, Senator. We do not have it finished yet.

Senator MILLIKIN. Would you mind checking on that? I would like to have that before we finish here.

Now would you mind explaining this article XIV to us?

Mr. BROWN. Yes, sir.

The purpose of this article is twofold. It is to recognize the fact that under the exchange-shortage conditions which exist today, it will not be possible for many, if not most countries to refrain from some form of discrimination in the purchase of their imports. They will be in a position where they do not have the necessary foreign exchange to buy from hard-currency areas, and where they do have the capacity to buy from soft-currency areas. Therefore, as long as that condition exists, it will be necessary for some form of discrimination to take place, if they are to get the things that they need.

It is also designed to put upon the extent of that discrimination all the limits which are practicable, to confine it to the transitional period, or rather the period under which parties to the agreement are availing themselves of the transitional measures which are authorized by the fund agreement, and also to place limits upon the type of restriction which they can employ.

Annex J and article XIV are directed to the same purpose, but they set up two different tests for deciding whether it has been achieved. This can be summarized briefly by saying that the test of the article is the historical test. That is to say, countries can maintain the discriminatory arrangements which they have on the date of the agreement; whereas under annex J an objective test of the permitted extent of discrimination is established.

Senator MILLIKIN. So far, you have made a statement of purpose. Now let us start at the beginning and tell us how you do it. Let us go into the exact procedures.

Mr. BROWN. Under 1 (a) you have the recognition of the need for a measure of discrimination.

Senator MILLIKIN. May I ask in that connection: There is a recognition of exceptional transitional-period arrangements. How do you measure the transitional period?

Mr. BROWN. That is covered in paragraph (f), Senator, where it says that the use of the discrimination permitted under this article, can be applied only so long as the party "is availing itself of the postwar transitional-period arrangements under article XIV of the fund agreement.

Senator MILLIKIN. So the provisions of the Monetary Fund will really determine the length of the transitional period; is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Do you feel that you have legal authority to delegate that power to the fund?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And to make it a part of this general agreement?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You were discussing 1 (b).

Mr. BROWN. Well, 1 (b) simply says that if the fund allows a country to apply exchange controls, it may also apply quantitative restrictions having the same effect.

Senator MILLIKIN. Article XII, referred to, there, is the article which refers to restriction of quantity or value?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And article XIII referred to there, intends to have the restrictions on a fair and equitable basis all along the line?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now, then, you were permitting deviations from that. Is that correct?

Mr. BROWN. Yes, sir. Because under this particular paragraph, if a country may apply exchange controls under the fund agreement, obviously that could have the same effect on the channeling of trade as a quantitative restriction can.

Senator MILLIKIN. The contracting parties of this general agreement will handle themselves under 1 (b), will pace themselves under 1 (b), to the decisions of the Monetary Fund, in the matter. Is that correct?

Mr. BROWN. Yes, sir. If the Monetary Fund permits the application of exchange controls, the parties to this agreement may impose quantitative restrictions having the same effect.

Senator MILLIKIN. Tell us something about article XIV of the Monetary Fund.

Mr. BROWN. Article XIV of the Monetary Fund agreement provides, in substance, in paragraph 2 that during the postwar transitional period members may impose restrictions on payments and transfers for current international transactions. They undertake to do everything they can to develop the kind of arrangements that will eliminate the need for such restrictions and to withdraw them as soon as they can.

Senator MILLIKIN. Mr. Chairman, I suggest, so that we may have the full content of article XIV, that Mr. Brown supply the reporter with the full content of article XIV and have it put into the record.

The CHAIRMAN. You will furnish it to the reporter, Mr. Brown, for the record.

(The material referred to is as follows:)

ARTICLE XIV

TRANSITIONAL PERIOD

Section 1—Introduction

The Fund is not intended to provide facilities for relief or reconstruction or to deal with international indebtedness arising out of the war.

Section 2—Exchange Restrictions

In the postwar transitional period members may, notwithstanding the provisions of any other articles of this agreement, maintain and adapt to changing circumstances (and, in the case of members whose territories have been occupied by the enemy, introduce where necessary) restrictions on payments and transfers for

current international transactions. Members shall, however, have continuous regard in their foreign exchange policies to the purposes of the Fund; and, as soon as conditions permit, they shall take all possible measures to develop such commercial and financial arrangements with other members as will facilitate international payments and the maintenance of exchange stability. In particular members shall withdraw restrictions maintained or imposed under this section as soon as they are satisfied that they will be able, in the absence of such restrictions, to settle their balance of payments in a manner which will not unduly encumber their access to the resources of the Fund.

Section 3.—Notification to the Fund

Each member shall notify the Fund before it becomes eligible under Article XX, Section 4 (c), or (d), to buy currency from the Fund, whether it intends to avail itself of the transitional arrangements in Section 2 of this Article, or whether it is prepared to accept the obligations of Article VIII, Sections 2, 3, and 4. A member availing itself of the transitional arrangements shall notify the Fund as soon thereafter as it is prepared to accept the above-mentioned obligations.

Section 4.—Action of the Fund Relating to Restrictions

Not later than three years after the date on which the Fund begins operations and in each year thereafter the Fund shall report on the restrictions still in force under Section 2 of this Article. Five years after the date on which the Fund begins operations, and in each year thereafter any member still retaining any restrictions inconsistent with Article VIII, Sections 2, 3, or 4 shall consult the Fund as to their further retention. The Fund may, if it deems such action necessary in exceptional circumstances, make representations to any member that conditions are favorable for the withdrawal of any particular restriction, or for the general abandonment of restrictions, inconsistent with the provisions of any other articles of this agreement. The member shall be given a suitable time to reply to such representations. If the Fund finds that the member persists in maintaining restrictions which are inconsistent with the purposes of the Fund, the member shall be subject to Article XV, section 2 (a).

Section 5.—Nature of Transitional Period

In its relations with members, the Fund shall recognize that the postwar transitional period will be one of change and adjustment and in making decisions on requestes occasioned thereby which are presented by any member, it shall give the member the benefit of any reasonable doubt.

Senator MILLIKIN. Mr. Brown, all through the analysis we have been making of this general agreement, I have pointed out the double delegations of power involved; in that first we delegate to the President, under the original Trade Agreements Act as amended, then the contracting parties assume a governmental role in the business, and then the contracting parties refer their decisions to the International Monetary Fund. You will find that this particular article is full of that sort of thing; my suggestion being that nothing of that kind has been authorized by any law of Congress. I go further, to meet the suggestion that the President has any general powers on the subject, and say that the President has no general powers on the subject; that what has been done is not only invalid constitutionally, but is completely unauthorized under the reciprocal trade acts.

In that connection I would like to read into the record some of the provisions of the Constitution that might be kept in mind in connection with the matter.

Article I, section 1, of the Constitution says [reading]:

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 7:

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Section 8:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises—

It also contains this provision:

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

It also contains this provision:

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

and I have just noted the presence, in section 1 (b), of another one of those delegations to the International Fund.

All right. Tell us about 1 (c), please, Mr. Brown.

Mr. BROWN. That is the point I made, Senator: that under the article the test is a historical one. A party to the agreement may continue during this transitional period in its balance-of-payments difficulties, deviations from the rule against discrimination which existed on the 1st of March 1948.

Senator MILLIKIN. It could deviate in exchange matters?

Mr. BROWN. Yes, sir.

Senator TAFT. Which section is this?

Senator MILLIKIN. Article XIV, section 1 (c).

Senator TAFT. In annex J, you mean?

Senator MILLIKIN. No, in the main article, article XIV, section 1 (c)

Senator TAFT. Yes, I have it.

Senator MILLIKIN. In other words, there are provisions in the agreement which are aimed at nondiscrimination in exchange matters. This permits a deviation.

Mr. BROWN. That is nondiscrimination in the use of quantitative restrictions generally, whether they be exchange controls——

Senator MILLIKIN. It does include exchange controls, does it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Please explain article 1 (d) to us, Mr. Brown?

Mr. BROWN. That is the paragraph which gives the parties to the agreement a choice as to whether they will be governed by the historical test or by what I call the objective test of annex J.

Senator MILLIKIN. May I invite your attention to this language, from article XIV, section 1 (d) [reading]:

Any contracting party which before July 1, 1948, has signed the Protocol of Provisional Application agreed upon at Geneva on October 30, 1947, and which by such signature has provisionally accepted the principles of paragraph 1 of Article 23 of the Draft Charter submitted to the United Nations Conference on Trade and Employment by the Preparatory Committee may elect, by written notice to the Contracting Parties before January 1, 1949, to be governed by the provisions of Annex J of this agreement * * *

Will you explain to us how it comes that a signatory to this agreement makes a provisional acceptance of the principle of ITO?

Mr. BROWN. In the general agreement as it stood at the close of the Geneva conference, this article XIV was in the same form as article 23 of the draft charter which was submitted to the Havana conference, and for the reasons that we have already discussed, they were dealing with the same subject matter.

Senator MILLIKIN. Would you mind explaining subparagraph (e)?

Senator TAFT. May I ask: You mean that as a matter of fact no

one of these nations could get the benefit of this election unless they signed the Draft Charter of the ITO?

Mr. BROWN. No, sir. They could not have the benefit of the election unless they were parties to this agreement, unless they had signed the protocol of provisional application of the general agreement; not the ITO.

Senator TAFT. It refers here to signing the protocol of provisional application. What is that? Provisional application of what?

Mr. BROWN. the general agreement is put into effect by a separate protocol signed by all the parties, which is called the protocol of provisional application, and which says that the signatories to that protocol put this agreement provisionally into effect.

Senator TAFT. Anybody who signed the first draft of GATT?

Mr. BROWN. Yes, sir; anybody who agreed to put GATT into effect has this election.

Senator TAFT. This says [reading]:

which by such signature has provisionally accepted the principles of paragraph 1 of Article 23 of the Draft Charter.

That is the one that has been substituted by protocol and made a part of the GATT? Is that the reason?

Mr. BROWN. It now has; yes, sir.

Senator TAFT. It now has?

Mr. BROWN. At that time the substance of article 23 appeared both in the general agreement and in the draft charter which emerged from the Geneva meeting; the same language.

Senator TAFT. Well, it certainly applies that if you want the benefit of this, you must have provisionally agreed, at least to paragraph 1, article 23, of the charter of the ITO. It necessarily implies that.

Mr. BROWN. That article appeared originally in the agreement in the same form in which it appeared in the Geneva draft of the charter. It was subsequently changed at Habana, and the draft of the charter is different from what it was at Geneva.

Senator MILLIKIN. And those who signed this agreement, those who provisionally accepted this agreement, committed themselves to taking that paragraph out of the charter, which is now article XIV of the agreement. Correct?

Mr. BROWN. Yes, sir. The agreement now contains the same article which is now in the charter.

Senator MILLIKIN. The point has been emphasized, all through this thing, and I hope we are developing it, that the ITO Charter is the source of the general agreement; and I suggest this is another evidence of it.

Senator TAFT. I suggest that if anybody can ever be held for violating this combination of things successfully, I would be very surprised; this country or any other country. It seems to me that the complications are such that a lawyer could drive a four-horse team through any obligation that anybody has.

Mr. BROWN. Well, Senator Taft, that has not proved to be the case. There have been some cases in which the agreement has been put to the test and has been enforced, and a very satisfactory result has been obtained, from our point of view.

Senator MILLIKIN. They must have had a very poor lawyer. A freshman law student can evade any prohibition contained in this agreement.

Would you proceed with your explanation of these paragraphs, please?

May I invite your attention to the fact that in paragraph 1 (e) you now are using the word "policies" and not "procedures."

We had quite a discussion yesterday, Senator, as to the contention that under the Reciprocal Trade Agreements Act procedures were permissible and necessary to effectuate the purpose of the act. I think, going that far, that is entirely correct. The question was raised whether the adoption of policies having the force of law could be explained away on the ground that they were procedures.

Now, here we have an honest use of the word "policies"; and there are several repetitions of it.

Proceed, Mr. Brown, please.

Mr. BROWN. This is simply a statement that the parties to the agreement are desirous of promoting the maximum development of multilateral trade, and will follow the policies that will lead to that result in the application of their restrictions to the maximum extent possible.

Senator MILLIKIN. All right, tell us about (f).

Mr. BROWN. That is the one I have already mentioned, which limits the time during which article XIII is applicable, and also the time during which annex J is applicable.

Senator MILLIKIN. And that period of time is limited by the decision of the Monetary Fund?

Mr. BROWN. Yes, sir. We consider that a very desirable provision.

Senator MILLIKIN. All right. Let us have (g).

Mr. BROWN. (g)is designed to see that the exchange restrictions used by the contracting parties are subject to some form of review, publicity, and consideration; and requires that such review be made, or that there should be a report of the restrictions in force, not later than March 1, 1950.

Senator MILLIKIN. Have you finished, Mr. Brown?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You defined the sin. Then you prescribed tolerance of the sin. And this is to have a sort of a review on how much sinning there has been. Is that the idea of it?

Mr. BROWN. It could be put that way.

Senator MILLIKIN. I invite your attention to this language in that subparagraph [reading]:

> After March 1, 1952, any action under Annex J going beyond the maintenance in force of deviations on which such consultation has taken place, and which the Contracting Parties have not found unjustifiable or their adaptation to changing circumstances, shall be subject to any limitations of a general character which the Contracting Parties may prescribe in the light of the Contracting Parties' circumstances.

Does that not permit the contracting parties, acting jointly, as such, to go into the full circumstances of a nation's economic situation?

I will ask you that question first.

Mr. BROWN. It permits the contracting parties, acting jointly, to study the situation of a country and see whether or not, in their judgment, it is abusing the permission of this article allowing it to discriminate. That was something that we were most anxious to have, so that there could be some effective limitation upon discrimination.

Senator MILLIKIN. These deviations might go to the economic life of a nation; might they not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And that is the reason why you recognize the deviation and sanction it; is it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And yet here the contracting parties may shut off that deviation, thus perhaps doing irreparable harm to one of the contracting parties. And that would be done by a majority vote of the contracting parties, would it not?

Mr. BROWN. The contracting parties could, by majority vote, hold that a deviation was in violation of the agreement.

Senator MILLIKIN. And each one of the contracting parties has one vote?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. A majority of those votes would make that decision. It might deprive us of our own views in the matter completely, might it not?

Mr. BROWN. No, sir.

Senator MILLIKIN. Well, it would not deprive us of our views, but it might result in action which is entirely against our wishes; might it not?

Mr. BROWN. Yes, sir. Just as in the case of any international agreement to which we are only one party.

Senator MILLIKIN. Yes. That raises the question of what authority you have under the law, under our constitutional system, to vest such powers in that kind of a body.

Would you mind explaining (h)?

Mr. BROWN. That permits the contracting parties to go to some one party to the agreement which they feel should be taking the restrictions off, or limiting them, and suggest to it that it ought to get busy doing so.

Senator MILLIKIN. I notice the last sentence says [reading]:

If the Contracting Parties find that the contracting party persists in unjustifiable deviation from the provisions of Article XIII, the Contracting Party shall, within sixty days, limit or terminate such deviations as the Contracting Parties may specify.

Mr. BROWN. That is correct.

Senator MILLIKIN. That again goes back to the same source of power, whatever it may be, that we were discussing before, does it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And that also could have effects going to the vitals of a country's economy; could it not?

Mr. BROWN. Yes, sir.

Senator TAFT. I have not, of course, been here, and I apologize for asking about something which is perhaps perfectly clear. But the effect of these exemptions is to release the party from the tariff rates to which they have agreed, on the importation of American goods; is that it?

Mr. BROWN. No, sir; this does not in any way affect the tariff rates. What this does is to specify the conditions under which a country in exchange difficulties may impose quotas on its imports in amount and as to source.

Senator TAFT. But how is it related to the reciprocal trade agreement? Under that they agree not to impose quotas, is that it?

Mr. BROWN. If you have a tariff concession, it can easily be nullified by a quota. All of our agreements have had provisions limiting the use of quotas.

Senator TAFT. Limiting the use of quotas. And the effect of this is to modify the prohibition against limitation of the quotas. They can use quotas in spite of the reciprocal trade agreements under the circumstances stated here, in connection with the International Monetary Fund.

Mr. BROWN. That is correct.

Senator TAFT. If such quotas are imposed by them, it in no way limits the importation of their goods under the reduced tariff rates which we have given in those reciprocal trade agreements, does it?

Mr. BROWN. No, sir.

Senator TAFT. Are we bound not to impose quotas, also, by the reciprocal trade agreements?

Mr. BROWN. Generally, yes. We developed yesterday a number of circumstances in which we would be able to impose them under this agreement.

Senator TAFT. It would have to be by statute?

Mr. BROWN. This agreement would not determine the method which we would adopt. It could be by statute.

Senator TAFT. Under our system of law, the only way you could impose restrictions on imports is by law. Nothing in the Reciprocal Rate Agreements Act gives anybody the right to impose quotas.

Mr. BROWN. Either by direct action of the Congress giving the power to impose quotas, or by an action of Congress directing some administrative agency to impose the quotas, as in section 22 of the Agricultural Adjustment Act.

Senator TAFT. Yes. Do you claim the right under the reciprocal trade agreements to grant tariff reductions only for a limited amount of goods?

Mr. BROWN. Yes, sir; only on specific items.

Senator TAFT. No. I meant this: You may reduce the tariff on, we will say, watches, but you may say that that reduction will only apply to a limited number of watches?

Mr. BROWN. Yes, sir.

Senator TAFT. You claim that as incident to your right to reduce it. So that you do claim the right to reduce quotas in connection with a reduction in tariff.

Mr. BROWN. Oh, yes, sir. We have done that in a great many instances.

Senator TAFT. Yes, I remember many instances, cattle particularly. But that is done under the Reciprocal Trade Agreements Act, not under the Agricultural Adjustment Act.

Mr. BROWN. No, sir. That is a tariff quota as distinguished from an absolute quota, which comes under a different authority.

Senator MILLIKIN. Paragraph 2 deals with permission to make temporary deviations in relatively minor matters; does it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And that must also be with the consent of the contracting parties. Correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. All right. Will you explain paragraph 3?

Mr. BROWN. Paragraph 3 (a), is a very technical point; there are certain cases where a group of countries have declared a common par

value of their currency to the Monetary Fund, and it might be necessary in order to maintain the relationship, the effectiveness of that common par, to put some regulations on the trade of that group. That is permitted, and it only happens in a very small number of cases.

The second one is a provision similar to a provision in the British loan agreement, where it is contemplated that a country may in some cases deviate in order to help another country whose economy has been badly disrupted by the war. It might give some priority in exports or something of that kind.

Senator MILLIKIN. Would not 3 (a) have the effect of permitting a country which has a common quota in the International Monetary Fund to maintain restrictions to protect that quota?

Mr. BROWN. That is the purpose of it.

Senator MILLIKIN. That is the purpose of it?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And how many of these common quotas are there in the International Monetary Fund?

Mr. BROWN. I can only think of one, Senator, but may I inquire? I am told that it is only in the case of a mother country and some colonies; as, Britain and some of her colonies, but not including the Dominions. The same is true for France and Belgium and Holland.

Senator MILLIKIN. So that no matter how arbitrary the par arrangements might be as they affect that common quota, you could continue restrictions to protect those pars.

Mr. BROWN. Yes, sir. The remedy for the arbitrariness of the par would be by action in the Monetary Fund.

Senator MILLIKIN. By the fund?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. The contracting parties could not remedy it?

Mr. BROWN. No, sir.

Senator MILLIKIN. Would you mind explaining 4?

Mr. BROWN. That is the converse paragraph for export, permitting some discrimination in the matter of directing exports to correct balance of payments difficulties comparable to the discrimination permitted in channeling imports.

Senator MILLIKIN. It strikes me that that is a very significant paragraph. Let me get it in the record. (Reading:)

> A contracting party applying import restrictions under Article XII shall not be precluded by Articles XI to XV inclusive of this Agreement, from applying measures to direct its exports in such a manner as to increase its earnings of currencies which it can use without deviation from the provisions of Article XIII.

Let me ask you, Mr. Brown: Was anything of that kind even remotely contemplated when the Reciprocal Trade Agreements Act was passed?

Mr. BROWN. I do not think so.

Senator MILLIKIN. That is entirely novel, is it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. It really goes to authorizing embargoes, does it not?

Mr. BROWN. No, sir. I think what it means is this:

Let us suppose that country X has a limited quantity of some product available for export. There are a large number of countries that would like to purchase that product, including a hard-currency country, such as the United States or Switzerland. This paragraph 4

would permit country X to license all of that export quantity to the United States rather than to soft-currency countries, and would not permit the soft-currency countries to complain of discrimination under this article.

Senator MILLIKIN. How can you ever build up the soft-currency countries by permitting that sort of a deviation?

Mr. BROWN. There is no shortage of the soft currencies, Senator.

Senator MILLIKIN. Well, the soft currencies become worthless if the countries having them cannot trade. How do you encourage the financial stability of the countries that are in trouble with this kind of a provision?

Mr. BROWN. This is a permissive provision, and the major problem which is confronting the countries which are in trouble is their trade imbalance with the hard-currency areas. This would also apply in the case of a country that was having difficulty, or a serious trade imbalance with a particular soft currency country. I believe it is true that in a number of cases imbalances have developed abroad, not only between one European country and the United States but between one European country and another which often assume quite important proportions. Measures to correct that situation would be permitted under this article.

Senator MILLIKIN. But does that not have a significant impact on an importing country with soft currency? They could be deprived of essential imports under that, could they not?

Mr. BROWN. Yes, possibly, if it was abused.

Senator MILLIKIN. And the basic premise of the whole agreement includes equality of access by each of the contracting parties to the goods and resources of the other contracting nations. Is that not correct?

Mr. BROWN. Yes. But the principle of equal access to exports from another country cannot be applied fully under today's conditions, any more than the principle of equal opportunity for imports.

Senator MILLIKIN. I quite agree.

Mr. BROWN. And the purpose of this is to permit a country to build up its supply of currencies of which it is short, so that it can trade with less restrictions than it would otherwise do, and eventually work out of them.

Senator MILLIKIN. What is your claim of authority for that kind of a provision?

Mr. BROWN. The same authority as I have claimed before. It simply means, so far as the United States is concerned, that we agreed not to make a protest in case action was taken under this paragraph.

Senator MILLIKIN. Would you mind explaining No. 5?

Senator TAFT. What provision is there in the treaty which has to have this? Why is it necessary to put this country in? A country may, of course, in its sovereign right, make a diversion from one country to another if it wants to do so. Is there some provision in here which says you cannot do it?

Mr. BROWN. Yes, sir.

Senator TAFT. Where is that provision?

Mr. BROWN. These four articles, taken as a group, do two things. They establish the general principles that you won't use quotas or that if you do use them you won't discriminate in their use. The other two articles recognize that under today's conditions you can't

fully live up to those principles, and they specify the conditions under which you may deviate.

So that if a country should discriminate in the availability of its exports, if this paragraph 4 were not in the agreement it would be subject to an attack under the previous article.

Senator TAFT. Where does it say that you cannot impose this? That is what I am getting at. Is it in article II?

Mr. BROWN. It is in article XI, section 1. Article XI, section 1, says that no quotas will be placed upon exports, among other things.

Senator TAFT. Article XI?

Mr. BROWN. Article XI, section 1, second line.

Senator TAFT (reading):

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.

We subject ourselves to that as to our exports, do we not?

Mr. BROWN. Yes, sir. And we would also be able to use paragraph 4 of the article that we are discussing, if the circumstances should so require it.

Senator TAFT. Well, I mean, we do now impose a lot of export limitations. In fact, we have a whole system of export licenses.

Mr. BROWN. That is correct, sir.

Senator TAFT. And how are those excepted?

Mr. BROWN. We discussed that the other day, Senator. They are specifically taken care of under three points: that it is permissible to impose export controls to get an equitable distribution of goods in short supply, and to meet the needs for national security stockpiling, and that sort of thing.

Senator TAFT. In fact, the whole prohibition against exports does not amount to anything, does it? I mean, we can do anything we please? Or can't we? What can we not do with our exports?

Mr. BROWN. We could not put an absolutely flat arbitrary ban on the export of some commodity that was not in short supply, and had no relationship to our national security.

Senator TAFT. I mean: why would we want to?

Mr. BROWN. We have a prohibition on the export of tobacco seed.

Senator TAFT. What is that?

Mr. BROWN. We have a prohibition now on the export of tobacco seed. When this provision goes fully into effect we will have to ask the Congress to repeal that prohibition.

Senator TAFT. Why is not the agreement in effect now?

Mr. BROWN. It is provisionally in effect, Senator. To put it fully into effect, we and other countries will need legislative action; which we propose to ask you for.

Senator TAFT. How about atom bombs?

Mr. BROWN. That is completely covered. You can do anything you want about them.

Senator TAFT. Why? By specific terms?

Mr. BROWN. Because it says nothing in this agreement applies to fissionable materials.

Senator TAFT. I do not see why we bind ourselves as to exports. Is that in order to get an agreement out of the other people?

Mr. BROWN. No, it is to prevent the use of export restrictions for purely protectionist reasons.

Senator TAFT. How can you impose an export control for purely protectionist reasons? Protection has to do with imports.

Mr. BROWN. For example, the prohibition on the export to this country of quartz crystals in order to protect the building up of a radio manufacturing industry in the country of export. That kind of thing frequently happens.

Senator TAFT. In the country of export?

Mr. BROWN. Yes, sir. They keep the raw material, of which they have substantial quantity or substantial monopoly, and they do not let it get out of the country; so that in order to use it, people have to go down there to do their manufacturing.

Senator TAFT. So really the only limitation on export control is that a person shall not be able to put a limitation on exports solely for the purpose of building up his own industry. And that is about the only thing that is important.

Mr. BROWN. And that is what we are driving at.

Senator MARTIN. How about the exportation of machinery that builds up opposition to our production here in the United States, we will say, of china and glass, and oil and textiles?

Mr. BROWN. Under this agreement we would not be able to impose a ban on that export.

Senator MILLIKIN. You could if, under the paragraph that we are talking about, it might put us in a better exchange position. Is that not correct?

Mr. BROWN. Yes, sir. If we were in exchange difficulties, we could.

Senator MILLIKIN. Let us assume that we are in exchange difficulties. And we might well get to be in exchange difficulties.

A manufacturer of an article here, a private manufacturer of an article here in the United States, finds a customer in a soft-money country. He wants to do business with that customer on a soft-money basis whether wisely or unwisely, for whatever reasons impel him to want to complete the trade.

But if we were in exchange difficulties, we could bar that trade under the authority of this section that we are discussing, could we not?

Mr. BROWN. We would have to have the authority of Congress to do it.

Senator MILLIKIN. Sir?

Mr. BROWN. So far as the other parties to the agreement were, we could, but under our present legal authority we would not be able to do it without an action by the Congress.

Senator MILLIKIN. Here is one measure, then, that would not be self-executing, to cover a case of that kind.

Mr. BROWN. No, sir. As far as the United States is concerned, this would simply be a permission for the United States to take this action under these circumstances. How we do it would be a matter for us to decide; and in this case we would have to ask the Congress for authority to take this kind of action, if a certain need should arise. We could not do it by executive action.

Senator MILLIKIN. What is your theory on that? Why must you come to Congress?

Mr. BROWN. The only authority we have for export controls is from Congress.

Senator MILLIKIN. That is what I wanted to get clear in the record.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Under this paragraph, if a private trader in this country wanted to deal with a private trader in a soft-currency country, and if we were in exchange difficulties, our authorities could prevent him from concluding that trade, if there were covering congressional authority.

Mr. BROWN. Yes, sir; but only if there were authority of that kind.

Senator MILLIKIN. Why can you not derive authority to do that without an act of Congress, from the same line of argument that you have used in connection with importations?

Mr. BROWN. Because this is a totally different situation, Senator. This is a question of possible affirmative action by the United States.

Senator MILLIKIN. You assume the right to make agreements as to the exports of other countries under the authority which you have alleged?

Mr. BROWN. Yes.

Senator MILLIKIN. Well, why exempt ourselves?

Mr. BROWN. There is a difference between the relationships between two outside countries and the relationship within this country.

Senator MILLIKIN. Exactly.

Mr. BROWN. We don't claim the right to impose an import quota without the authority of Congress. In fact, I think several times during the course of this hearing I have stated that. In the case of the Swiss watches, for example, we were not able to do so.

Senator MILLIKIN. I suggest that if you applied the full scope of the arguments which you have made here, you could establish quotas in these trade agreements, and you could also meet the requirements of this paragraph. But that is argumentative, and we will come to that in due course.

Would you proceed with the next paragraph, please?

Mr. BROWN. Paragraph 5 (a) [reading]:

Article VII of the Monetary Fund Agreement proposes that in certain circumstances the Fund may declare a currency to be scarce, in which case countries are able to impose restrictions necessary because of that scarcity. All this says is that if the Fund does that, the country can take the action authorized by the Fund either by exchange controls or by the imposition of quotas.

Senator MILLIKIN. As matters stand today, we are, practically speaking, the only country that that could be aimed against. Is that right?

Mr. BROWN. Practically. I think there are two or three other currencies that are scarce. I think the Swiss franc is pretty scarce, and I believe also that the Portugese escudo is rather scarce.

Senator MILLIKIN. With those exceptions?

Mr. BROWN. Practically speaking; yes, sir.

Senator MILLIKIN. Practically speaking, we are the country toward which that could be aimed.

Mr. BROWN. And we have agreed to it in the articles of agreement of the Monetary Fund.

Senator MILLIKIN. So that we encourage nations, subject to, perhaps, a half dozen other limitations, to put on export controls so that

they will not have to export to this country. And thus you twist up your objectives of increasing the imports to this country.

Mr. BROWN. On the contrary, sir, as I explained it, the purpose of paragraph 4 was to permit a country to impose controls so that it would export more to this country.

Senator MILLIKIN. But if it is in exchange difficulties, so far as the United States is concerned, when you suggest that the country in difficulties should increase its exports, and increase, in other words, our imports, you are suggesting that it should enhance its exchange difficulties.

Mr. BROWN. No, sir. If a country is short of dollars, and enhances its exports to the United States, it thereby decreases its shortage of dollars, because it earns more dollars.

The CHAIRMAN. Did we not agree to this in the Monetary Fund Act?

Mr. BROWN. Yes, we did, Senator.

The CHAIRMAN. So you just go back to the standard on which you can base action here.

Senator TAFT. I made a long speech against it, though, and pointed out how it absolutely nullified any good we could get out of it. The moment dollars are short,we get no advantage at all from the Monetary Fund. This extends the whole thing. If dollars are short, nobody has to take our goods. We get no advantage from reciprocal trade agreements.

Senator MILLIKIN. This is another one of the explicit tie-ins between what we are doing in our tariff matters and the decisions of the International Monetary Fund, where we have a 30 percent vote.

Mr. BROWN. Senator, may I comment?

Senator MILLIKIN. Yes, surely.

Mr. BROWN. What this paragraph says is that if a currency is declared scare by the fund, of which we are a member, which is a separate international agency, then, under the fund agreement all countries would be able to take certain exchange control actions.

Those exchange control actions can limit imports from this country just as effectively as any quantitative restriction. And it is quantitative restrictions which are the subject matter of this article.

This article, therefore, simply says that under such circumstances a country is not prevented from accomplishing the result which the fund has authorized it to accomplish by the use of quota as well as by the use of an exchange control.

Senator MILLIKIN. In brief, this paragraph (a) permits any of the contracting parties to impose restrictions of such character as to conform their trade to the variations in exchange as established by the Monetary Fund. Is that not correct?

Mr. BROWN. Yes, sir.

The CHAIRMAN. But you have endeavored to soften the effect of that on trade as far as you can.

Mr. BROWN. Yes, sir. This article attempts to limit the restrictive action to the circumstances where they are found to be legitimate.

The CHAIRMAN. That is what I say. You have endeavored to soften it, even if only by persuasion among the contracting parties. You have endeavored to soften it as far as possible.

Mr. BROWN. Would you like me to go on?

Senator MILLIKIN. Yes; go ahead.

Mr. BROWN. The final point in (b) is that we have, I think, three quota agreements in our agreement with the United Kingdom which it has been agreed to transfer into a tariff; and it simply says that there is no technical violation if you maintain those.

Senator MILLIKIN. Would you mind telling us about the interpretative provision to paragraph 1 (g)?

Mr. BROWN. That is a de minimis rule. If you have small transactions you may deviate.

Senator TAFT. What is a small transaction? When is it small and when is it big? What scale do you use?

Mr. BROWN. That requires a judgment.

Senator MILLIKIN. Well, the aggregate of those small transactions is what finally raised the main question.

Mr. BROWN. That is correct, sir. And this reference is to "the transaction"; and if there were a whole series of them, I think it would constitute an act of general policy.

Senator MILLIKIN. And when it constitutes an act of general policy, and I emphasize the word "policy," then the contracting parties could get into the situation. Right?

Mr. BROWN. Yes, sir; there may be consulation at that time.

Senator MILLIKIN. Will you explain paragraph 2?

Mr. BROWN. May I take advice?

Senator MILLIKIN. Yes.

Mr. BROWN. This is an example, Senator, of the case you referred to, in paragraph 2. Sometimes it happens that a country acquires a balance of some currency which it could use to get something that it needed and which it cannot use any other way; and this would permit the use of such an accumulated balance under the circumstances described in paragraph 2.

Senator MILLIKIN. Would you mind explaining Annex J?

Mr. BROWN. Well, Annex J is a different way of establishing the conditions under which discrimination might be permitted. As I say, this time it endeavors to write a standard rather than follow a historical practice. The standards are set forth in paragraph 1.

Senator MILLIKIN. And whatever is done under 1 (a) can be subject to the scrutiny of the contracting parties, and subject to action by them.

Mr. BROWN. Yes, sir. The action provisions would be comparable.

Senator MILLIKIN. Let me invite your attention to the word "afford" in 1 (a). The text is [reading]:

> 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 paragraphs 3 (a) and 3 (b) of Article XII if its restrictions were fully consistent with the provisions of Article XIII; provided that—

and there are three provisos.

Who sits around and determines what any of the contracting parties can afford to do?

Mr. BROWN. I think that would be a case where we have departed, for once, from legal language, and used a colloquial word.

Senator MILLIKIN. I think that is what you meant to say. I am glad you did not use legal language.

Mr. BROWN. I think it is a good word too. That would be where a party to an agreement felt that another party was able to live up to the

provisions of the article without imposing restrictions, and they could raise the point with the party taking the action and if necessary bring it into the consultative procedure specified below in paragraph 3, and then any decision would be by the contracting parties.

Senator MILLIKIN. Each member of the contracting parties is entitled to judgment on what each other member of the contracting parties can afford to do by way of imports, and if not satisfied he can take it to the contracting parties acting jointly and they resolve the question.

Mr. BROWN. The answer, Senator, is that this is something that the parties, the contracting parties, would have to pass on.

But I think I was rather obscure in my statement about the word "afford." May I try to clarify it?

Senator MILLIKIN. Surely.

Mr. BROWN. The point of this is that of making sure that a country, when it is discriminating is not diminishing its purchases from the hard-currency area, let us say the United States, for example, but is buying from another place only when it could not get it from the United States.

Now, if we felt, for example, that a country were using dollars to buy from some other source when it could get it from the United States, then, under this provision, a protest would be in order.

Senator MILLIKIN. I bring your attention back to the exact language [reading]:

> 1. (a) 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 paragraphs 3 (a) and 3 (b) of Article XII if its restrictions were fully consistent with the provisions of Article XIII; provided that—

and then two provisos.

I suggest to you that under that language there is no alternative from the conclusion that each of the contracting parties is entitled to judge what each of the other contracting parties can afford in the way of imports, and can raise the question to the contracting parties, and that the contracting parties can reach a decision on it.

Mr. BROWN. It is certainly clear, Senator, that the contracting parties can reach a decision on whether or not a country is abusing this permission given by this annex, and whether or not it is diverting dollars or hard currency for other purposes. They could do that; yes, sir.

Senator MILLIKIN. I suggest that when you give authority to a country, or to the contracting parties, to sit in judgment on what any of the contracting parties can afford, you are authorizing them to ransack the whole field of their economy, the whole field of their fiscal management, the whole field of their currencies. It seems to me that this Annex J is the apotheosis of the theories basic to complete world government.

Would you mind discussing those provisos?

The CHAIRMAN. I suggest Mr. Brown, that any time you wish to, you might have your aide answer a question if he is more familiar with it.

Mr. BROWN. May I ask Mr. Bronz of the Treasury to answer that question?

The CHAIRMAN. Yes.

Mr. BRONZ (George Bronz, special assistant to the General Counsel, Treasury Department). May I sit here and continue?

The CHAIRMAN. Yes.

Mr. BRONZ. Subparagraph (i) of (a) sets one of the tests which must be met for discrimination. Now in a typical case of discrimination a country would say, "You may not buy a given product from a source which is the most economical, but you must buy it from another country, where the price may be higher."

This provision says, "You may not discriminate 'too much.' " In other words, you may not discriminate where the price difference is too big. And whatever price difference you start with must be progressively reduced. It is an effort to limit the extent of discrimination and to require its progressive reduction.

Senator MILLIKIN. Well, then, this power goes to the question of price levels, does it not?

Mr. BRONZ. Yes, sir.

Senator MILLIKIN. And each individual member of the contracting parties is entitled to pass judgment on every other member's price levels. Is that correct?

Mr. BRONZ. When a country seeks to take advantage of this exception to the rule of nondiscrimination, it must be prepared to justify its resort to that exception.

Senator MILLIKIN. That does not detract from my suggestion that each of the contracting parties has a right to interest itself in the price levels of every other contracting party.

Mr. BRONZ. Not of every other contracting party, sir.

Senator MILLIKIN. Well, wherever it thinks it should engage its interest; is that not correct?

Mr. BRONZ. Only if another contracting party seeks to resort to this exception.

Senator MILLIKIN. Yes.

Mr. BRONZ. Now, the United States, which could not resort to this exception, could never be questioned on this ground.

Senator MILLIKIN. Well, we have no present intention of resorting to it.

Mr. BRONZ. As the provision is drafted, we could never resort to it, sir.

Senator MILLIKIN. Let us focus our conclusion, then: Any contracting party can interest itself in the price levels of any other contracting party where it thinks the price levels are injuring him; is that correct?

Mr. BROWN. He could interest himself in the price levels of the purchases of any other party from abroad where he thinks they are injuring him; yes, sir.

Senator MILLIKIN. And if he is not satisfied, it would become subject to the jurisdiction of the contracting parties.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And they could interest themselves. Correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And take action; all right.

Let us get to the next proviso.

Mr. BRONZ. Subparagraph (ii) is a second substantive limitation on the kind of discrimination that can be used. It provides that the discrimination should not be "part of any arrangement. * * *" Now, the phrase "any arrangement" was drafted broadly, but the

specific things we had in mind were bilateral trade agreements. If country A is negotiating a bilateral arrangement with country B, and, as part of the arrangement, contemplates admitting some goods from country B to the exclusion of perhaps more economical goods, this provision requires that there may not be, as part of the same arrangement, an agreement to sell exclusively to country B some product which could be sold for gold or hard currency. In other words, you cannot divert goods which you could use to earn dollars or earn hard currencies, as part of a bilateral arrangement involving discrimination.

It is an attempt to prevent the use of useful, desirable commodities, hard commodities that are in much demand throughout the world, from being injected into the bilateral agreements as part of the bargain for discrimination in admitting some commodity that is a drug on the market.

Senator MILLIKIN. Let me bring to your attention the language of that proviso. In order to do so, I will read the subparagraph. It is subparagraph (ii). [Reading:]

> (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 would have otherwise been reasonably expected to attain.

Does that not give each contracting party, where its interests are involved here, the right to pass judgment on the level of gold or convertible currency which the other contracting party or parties would be expected to have.

Mr. BROWN. Not nearly as broadly as you suggest, Senator. Because what this means is that you can't tie up in a bilateral, in a soft-currency area, exports that you would otherwise be able to sell for hard currency. And that would mean that the contracting parties could interest themselves in the amount of those goods that were tied up. But this subparagraph would not mean that they would get into the general level of reserves of the country.

Senator MILLIKIN. But does it not establish an interest in a contracting party in the level of gold or convertible currency maintained by another contracting party or parties?

Mr. BROWN. This particular subparagraph establishes an interest in the contracting parties and particular contracting parties in certain transactions which would reduce the level of gold or other convertible currencies which the other contracting party has.

Senator MILLIKIN. So that that level, and the level to which it otherwise could have been reasonably expected to attain, becomes the thing of interest.

Mr. BROWN. Yes, sir; and what that means is: In the absence of the transaction referred to. So it is the particular transaction to which this interest conferred by this subparagraph extends.

Senator MILLIKIN. But in the particular transaction, the question that would be raised under this proviso would be the question whether the level of gold and convertible currencies is such or is not such as could otherwise be reasonably expected for attainment. Right?

Mr. BROWN. Yes, sir; in the absence of that transaction.

Senator MILLIKIN. That is a judgment which any contracting party can form in any field of interest to him, and he can take that to the contracting parties. Right?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. So I suggest to you again that this provision authorizes a complete ransacking of the whole economy and the whole fiscal management of any of the contracting parties, whenever the facts arise that would invoke the proviso. Correct?

Mr. BROWN. No, sir.

Senator MILLIKIN. Do you care to make any explanation other than that which you have made?

Mr. BROWN. This subparagraph gives the other contracting parties an interest in the effect of particular transactions upon the general level of reserves. It does not authorize an investigation into the internal fiscal policies of the country, or as to its tax system, or many of the other things which you have suggested.

Senator MILLIKIN. I suggest to you that what you have suggested is refuted by the fact that you must determine the reasonable level which the country should maintain. And to determine what the reasonable level of gold or convertible currencies may be in any particular country requires a ransacking of its entire economy and of all of its fiscal policies and the management of its government and everything else.

Mr. BROWN. I quite agree that that is true, Senator, but that is not what I understand this subparagraph to do.

This paragraph gives an interest in the contracting parties as to the effect of a particular transaction upon the level of gold or reserves, and the judgment, the words "reasonably expected to attain" means the reasonable expectation in the absence of that transaction.

Senator MILLIKIN. Yes; but who establishes what that level shall be? Who determines what is the reasonable level which should be attained?

Mr. BROWN. The contracting parties would have the judgment as to what level would reasonably be expected to be obtained if that transaction did not take place.

Senator MILLIKIN. And how would they go about determining that?

Mr. BROWN. They would examine the effect of the particular transaction.

Senator MILLIKIN. That is right; and that would carry them where?

Mr. BROWN. It would depend on the transaction, but I do not think it would carry them too far.

Senator MILLIKIN. It certainly would have to go far enough so that they could determine that is the reasonable level which this country should maintain.

Mr. BROWN. That is not the point to which they would direct their attention, sir. They would direct their attention to the level which it might have attained if the goods in question had gone somewhere else, had gone to a hard-currency area. It is a limited decision about a particular transaction or set of transactions.

Senator MILLIKIN. But I ask you again: Assume that it relates to a particular transaction. In connection with judging the effect of this proviso on that particular transaction, the contracting parties, or any one of them, gets an interest in what should be the reasonable level of a contracting party so far as gold or convertible currencies are concerned. That is what it says, Mr. Brown.

Mr. BROWN. No, sir; it says that if, for example, a million dollars, worth of goods which could be sold in a hard-currency area went somewhere else under a bilateral agreement, you would reasonably expect that they would have had a million dollars more of hard currency if they had sent it to a hard-currency area.

Senator MILLIKIN. But it does not quite say that. No, it does not quite say that. That would be much more intelligible. What it says is that the decision shall be whether there has been an appreciable reduction below the level of gold and convertible currencies that a contracting party should reasonably expect to attain.

Mr. BROWN. You left a word out, Senator, "otherwise."

Senator MILLIKIN. Otherwise, that is right.

Will you explain subparagraph (b), please?

Mr. BROWN. Yes, sir. That is the same kind of a caveat that we have discussed before, in which the party which is administering a quota control undertakes not to do unnecessary damage to the interests of other countries. There are often choices in the way in which something permitted under this annex to be done could be done, one way which would be harmful, and another way which would be much less so. This is an undertaking to follow the latter procedure.

Senator MILLIKIN. Does this not say in a word, that we will not scrutinize individual transactions? Is that not what it says?

Mr. BROWN. I was commenting on subparagraph (iii), sir, which we had not discussed.

Senator MILLIKIN. I thought we were talking to different purposes.

With reference to subparagraph (b) of annex J, then?

Mr. BROWN. That is correct. You do not have to go down into the minutiae of daily transactions.

Senator MILLIKIN. If you do not go into the minutiae of the individual transactions, how do you relate that to the emphasis on the individual transactions under subclause (ii), above?

Mr. BROWN. For example, it might not be necessary to have a complete exclusion of a particular product. That would be something that could be discussed under subparagraph (iii). But if you do have a level of permitted imports, and there was some deviation in a particular individual case within that, you would not go into it under subparagraph (b).

Senator MILLIKIN. And here again, I suggest, it is the aggregate of the individual transactions that finally presents you with a real question.

Mr. BROWN. That is correct.

Senator MILLIKIN. So a fellow can go into the house and throw lighted matches, one at a time, all over the place, and we do not concern ourselves until the house is burned down. Is that about the way it works?

Mr. BROWN. That would be an extreme example, I think.

Senator MILLIKIN. Will you proceed with your explanation of paragraph 2?

Mr. BROWN. Excuse me just a moment, sir.

I am sorry, Senator Millikin. I have given you the wrong answer on paragraph (b). Paragraph (b) says that a contracting party will desist from transactions which don't meet subparagraph (a)'s test. But it means that they don't have to satisfy themselves in advance, on every particular individual license or transaction, that they are meeting the test. In other words, it permits a certain amount of

administrative flexibility. It would be too difficult to investigate each individual transaction in a whole large series.

Senator MILLIKIN. Will you explain paragraph 2?

Mr. BROWN. That is to insure publicity as to import regulations.

Senator MILLIKIN. I think that is clear. Will you pass to 3?

Mr. BROWN. That is comparable to the provision we discussed in the article itself, in which the contracting parties can require the cessation of a discriminatory measure; and it also says that if there has been consultation in davance, and agreement, the measure is O. K. and it can't be further challenged.

Senator MILLIKIN. Once again I invite your attention to the great power of the contracting parties over the subject matter of that paragraph.

Senator, that concludes my questioning on article XIV. Do you wish to proceed, or shall we call it a week?

The CHAIRMAN. I think we had better call it a week, Senator. I did not want to go longer than 12 or 12:30, at any rate.

At the request of Senator Brewster, I wish to insert in the record a letter from Mr. John J. Keane, Isle au Haut, Maine.

(The letter is as follows:)

ISLE AU HAUT, MAINE, *February 22, 1949.*

The Honorable OWEN BREWSTER,
The United States Senate, Washington, D. C.

OUR DEAR SENATOR BREWSTER: You have perhaps received a copy of the poll taken by Maine coast fishermen showing that the vast majority of Maine fishermen not only want but need some help, either subsidy or tariff or both.

It is time that Maine's fishing industry was protected. Landings of $12,870,089 are quite a big help to a growing State. Don't you think that if we can give (as Mr. Truman wants you to) $50,000,000 to aid South American health, education, and agriculture, plus the enormous outlay of cash on our own farm program, plus $15,000,000 for the small fishermen of Japan to buy twine nets, etc., this latter from Fish and Wildlife report. I am sure you and comrade Saltonstall, Mrs. Smith, and all the rest of the gentlemen interested in fishing could, if you really went after it, get something done. Hurry up get something in the papers and on the air. Saltonstall did. Do you want Maine to vote Democrat in 1952? Let's go.

Sincerely for good fishing,

JOHN J. KEANE.

The CHAIRMAN. The committee will be in recess until 10 o'clock Monday.

(Whereupon, at 12:10 p. m., the committee recessed, to reconvene at 10 a. m., on Monday, February 28, 1949.)

EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT

MONDAY, FEBRUARY 28, 1949

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to adjournment, in room 312, Senate Office Building, Senator Clyde R. Hoey presiding.

Present: Senators Hoey (presiding), Millikin, Martin, and Williams.

Senator HOEY. The committee will come to order, and we will resume the hearings.

I believe Mr. Brown is the witness.

Senator MILLIKIN. Mr. Brown, did we put into the record what, if anything, you were going to bring back on article XIII?

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICER OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE, WASHINGTON, D. C.—Resumed

Mr. BROWN. I don't think you asked that question, Senator.

Senator MILLIKIN. After we left that day, I could not remember whether I did or did not ask the question. So if we omitted XIII, let us get into that.

Mr. BROWN. Neither XIII nor XIV would require legislation.

Senator MILLIKIN. Let me turn to XIII. If I should omit that question, let us make it routine.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. All right. Will you tell us about what you intend to bring back for the approval of Congress or by way of amending legislation, insofar as article XIII is concerned?

Mr. BROWN. Neither XIII nor XIV, Senator, would require changes in legislation.

Senator MILLIKIN. Nothing in either?

Mr. BROWN. No, sir.

Senator MILLIKIN. How are you getting along on the request that has been made to give us a statement of your authority for the various articles in the general agreement?

Mr. BROWN. Senator, I am pushing the lawyers even harder than you are pushing me.

Senator MILLIKIN. Are they progressing?

Mr. BROWN. They appear to be hard at work, Senator.

Senator MILLIKIN. May I ask you whether you have found any Supreme Court decision or any Federal court decision which, under your theory authorizes what I have been referring to as a double or triple delegation of power? Is there any authority that you claim supports your position on that?

Mr. BROWN. I am not familiar with Supreme Court decisions, Senator. I have not been dealing with them for the last 8 or 9 years.

Senator MILLIKIN. I am speaking, of course, of where that double delegation or triple delegation occurs without the express consent of Congress.

Mr. BROWN. I think that my testimony in response to your questioning has indicated that I did not concur with you that there was a triple delegation or——

Senator MILLIKIN. I do not expect to carry my point by my own definition of the terms. So let me put it this way: The Congress has delegated certain powers to the President under the Reciprocal Trade Agreements Act to make reciprocal trade agreements. Whether you view it as a further delegation of power or not, the President has made an agreement which gives certain authority to the so-called contracting parties. He has also made an agreement which gives certain powers in the matter to the Monetary Fund. Whether or not you call those delegations of power, or whatever you may clal them, I would like to have a case in point, if you can find one, from the Supreme Court or any other Federal court that will authorize the makng of that kind of an agreement.

Are you clear now on what I want?

Mr. BROWN. Yes, sir.

PRECEDENTS RELEVANT TO INTERPRETATIVE DECISIONS REGARDING, OR AMENDMENTS OF, PROVISIONS OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The question has been raised whether there is any precedent for the Executive, operating under power delegated to him by Congress, to enter into a multilateral executive agreement with other countries, which agreement would—

(*a*) Authorize decisions as to interpretation of the agreement by majority or other vote of parties thereto or by some other international agency or group, or

(*b*) Authorize binding amendment of its provisions by majority or other vote of the parties.

A. Interpretation

In 1872 Congress, by law, authorized the Postmaster General to enter into postal conventions in the following words:

"SEC. 167. That for the purpose of making better postal arrangements with foreign countries, or to counteract their adverse measures affecting our postal intercourse with them, the Postmaster-General, by and with the advice and consent of the President, may negotiate and conclude postal treaties or conventions, and may reduce or increase the rates of postage on mail matter conveyed between the United States and foreign countries" (act of June 8, 1872, ch. 335; 17 Stat. 283, 304).

This provision became section 398 of the Revised Statutes and was amended and reenacted at the time of the passage of the Trade Agreements Act, June 12, 1934 (48 Stat. 943, ch. 473).

Under authority of this statute, the Postmaster General, on May 21, 1875, ratified and approved a treaty concerning the formation of a General Postal Union, signed at Berne, October 9, 1874, article XVI of which provided:

"In case of disagreement between two or more members of the Union as to the interpretation of the present treaty, the question in dispute shall be decided by arbitration. To that end, each of the Administrations concerned shall choose another member of the Union not interested in the affair.

"The decision of the arbitrators shall be given by an absolute majority of votes.

"In case of an equality of votes, the arbitrators shall choose, with the view of settling the difference, another Administration equally disinterested in the question in dispute."

A parallel provision will be found in the 1946 Convention of the Postal Union of the Americas and Spain (TIAS 1680, art. 20). In addition, the latter convention provides:

"ARTICLE 26—APPLICATION OF THE UNIVERSAL POSTAL CONVENTION AND DOMESTIC LEGISLATION

"1. All matters in connection with the exchange of correspondence among the contracting countries which are not provided for in this Convention, *will be subject to the stipulations of the Universal Postal Convention and its Regulations.* In turn, those which are not covered by these last two will form the subject of special agreements between the Administrations concerned.

"2. Likewise, the domestic legislation of the said countries will apply to everything which has not been provided for in either Convention.

"ARTICLE 27—PROPOSITIONS FOR UNIVERSAL CONGRESSES

"All the countries forming the Postal Union of the Americas and Spain will advise one another, through the intermediary of the International Office of Montevideo, of the propositions which they formulate for Universal Postal Congresses, six months in advance of the date on which they are to be held.

"ARTICLE 28—UNITY OF ACTION IN UNIVERSAL POSTAL CONGRESSES

"The countries signatory to the Americo-Spanish Postal Convention which have ratified the same or put it into force administratively *obligate themselves to instruct their delegates to Universal Postal Congresses to sustain unanimously and firmly, all principles established in the Postal Union of the Americas and Spain, and also to vote in accordance with these postulates,* except only in cases where the propositions to be debated affect only the countries proposing them." [Italics supplied.]

Thus, under the terms of arrangements entered into by virtue of a delegation of Congress's power to establish post offices and post roads, the Postmaster General agreed to be governed by the decisions of third parties on matters arising under the arrangements. He has further agreed in the Convention of the Americas and Spain to be bound by decisions reached by the Universal Congress which, of course, has a much wider membership base, and which, as will be seen below, might take amendatory action without the consent of the United States. So far as is known, these provisions have not been questioned as being in any way *ultra vires.* On the contrary, the United States has submitted twice to arbitration under the similar provisions of successor arrangements, and the Supreme Court itself recognized the validity of the Berne arrangement.

In 1925 the Swiss and Hungarian Postal Administrations handed down a decision, which the parties accepted, settling a dispute between the United States and Norway. The United States had already undertaken to apply the award in similar disputes with Sweden and Denmark.[1] And within the last few years, the United States accepted another award in a dispute with the Netherlands.[2]

In *Cotzhausen* v. *Nazro* (1882) (107 U. S. 215) Mr. Justice Miller, speaking for an undivided Court (Mr. Justice Field not sitting), upheld the validity of the Berne arrangement. Cotzhausen had sued the collector of customs for seizing a wool scarf sent from Germany by mail in a sealed envelope.

"The letter containing this scarf came from Germany *to the United States under the international postal system, established by the treaty of Berne, of Oct. 9, 1874.* The Twenty-fifth article of the protocol to that treaty, which, under the signatures of the plenipotentiaries who negotiated it, is declared to be of the same force as if it was inserted in the treaty, provides that 'there shall not be admitted for conveyance by the post any letter or *other packet* which may contain either gold or silver money, jewels, precious articles, or any article whatever liable to customs duties.' (19 Stat. 604, art. 25).

"While some attempt in argument is made to show that, either by treaty or by act of Congress, books, patterns of merchandise, and perhaps other articles may come through the foreign mail without liability to forfeiture, it is sufficient to say that the article seized in this case was not sent as a sample, nor is it a book or other article asserted to be admissible.

"*Its introduction into the United States in this manner is, therefore, forbidden by the express provisions of the postal treaty under which it came, which is the law of the land, and is unauthorized by any act of Congress.*" [Italics supplied.]

[1] 51 L'Union Postale, pp. 50-60 (No. 3, Mar. 1, 1926).
[2] Telephoned information from Post Office Department.

In 1890 Solicitor General William H. Taft addressed himself specifically to the question of constitutional authority for Postal Conventions entered into as the Berne arrangement had been:

"From the foundation of the Government to the present day, then, the Constitution has been interpreted to mean that the power vested in the President to make treaties, with the concurrence of two-thirds of the Senate, does not exclude the right of Congress to vest in the Postmaster General power to conclude conventions with foreign governments for the cheaper, safer, and more convenient carriage of foreign mails. The existence of such a power in Congress may, perhaps, be worked out from the authority given to that body in the seventh clause of section 8, of Article I, of the Constitution, to establish post offices and post roads. This has always been construed to mean power to organize and carry on the Post Office Department. Foreign mail is so closely connected with a proper system of inland mail as that the power to organize and carry on a general post-office system would seem to imply a power to organize, in connection therewith, a system of foreign mails, and, in the maintenance of such a system, a power to conclude contracts with the post-office departments of other countries. The delegation of these implied powers by Congress to the Postmaster General, sanctiojed by usage since the adoption of the Constitution, on the principles laid down in the case of *Ware* v. *United States* (4 Wall. 617), has acquired constitutional validity.

"For the reasons given, I am of the opinion that sections 398, 4012, and 4028, of the Revised Statutes, are constitutional and valid" (19 Op. A. G. 513, 520–521).

Subsequent practice and decisions of the courts have followed and applied these precedents, as for example, in the recent case of *Standard Fruit and Steamship Co.* v. *U. S.* (1946) (103 Ct. Cls. 659), in which the court held that the postal convention of 1939 had become "part of the postal laws and regulations" and had "the same force and effect as any other regulation issued by the Postmaster General under authority of law."

B. Amendment

Ever since the Stockholm Universal Postal Convention of 1924 (44 Stat. pt. 2, p. 2221), and thus for a quarter century, the United States has concurred in provisions in the postal convention permitting additions and modifications to specified articles of the conventions by a two-thirds, and even a simple majority. Such modifications have been so effected, and have been applied by the United States.[3] In the convention of 1939, article 21 made such matters as provisions governing special charges, samples of merchandise, collection of customs duties by the administrations, exclusion of articles from the mails, etc., subject to change by a two-thirds majority.[4]

Similar provisions will also be found in the 1946 convention of the Postal Union of the Americas and Spain (TIAS 1680, art. 14; and Regulations, art. 23).

Senator MILLIKIN. Now, can you furnish us with a list of those contracting parties which have referred the general agreement or parts of it to their Parliaments?

Mr. BROWN. Yes. I think that in the record in the House there was a list of legislative or executive procedures which all of the contracting parties would have to go through.

Senator MILLIKIN. May we have the same thing in this record?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I assume that that goes directly to the point as to which countries have felt that this agreement, or perhaps important parts of it, should come back to their Parliaments for approval.

Mr. BROWN. I wouldn't like just a list to stand on the record on that point, because clearly the constitutional systems of the different countries vary so greatly that simply the fact that one party to the agreement felt it necessary to submit it to their Parliament would not be in any way a precedent for action that might be required by another party to the agreement.

---

[3] Information supplied by telephone by the Post Office Department.

[4] 54 Stat. pt. 2, p. 2049, 2059. (Although the 1947 Convention supersedes that of 1939, it contains substantially the same provisions in this respect.)

Senator MILLIKIN. I would not know how to make an appropriate argument on analogies where they exist or where they do not exist. So if you wish to elaborate and give us the constitutional provisions or legislative provisions, whatever they may be, that require the reference back, that would be all to the good. I have some knowledge of the constitutional systems of some of the countries; but if there are any defects in my argument, I have no doubt that they will be pointed out.

Perhaps, however, you can forestall my argument if you give me a very informative list.

(The following information was subsequently supplied:)

DEPARTMENT OF STATE

Legislative action in foreign countries in giving provisional effect to the general agreement on tariffs and trade

[NOTE.—It should be noted that under the parliamentary form of government, which obtains in a number of these countries, a ministry continues in power only so long as it has a working majority in the parliament and, therefore, legislative approval follows more or less as a matter of course. In the case of Latin American countries whose systems of government are structurally more similar to our own, the relation between the legislative and executive branches is usually much closer than it is in the United States and legislation sponsored by the executive branch is normally approved with little or no delay. The record shown by the attached tabulation is in sharp contrast with the record of reciprocity tariff treaties requiring United States Senate or House approval or both. In our entire national history only 3 out of 25 such treaties ever came into effect, and these 3 were with Canada (1854), Hawaii (1875), and Cuba (1902), countries with which we had particularly close geographical or political relationships.]

Country	Date signed [1]	In effect	Interval between date of signature and effective date
I. Countries not taking subsequent legislative action:			
Belgium and Luxemburg	Oct. 30, 1947	Jan. 1, 1948	2 months, 1 day.
II. Countries putting GATT into effect subject to later legislative action:			
1. Australia	do	do	Do.
2. Canada	do	do	Do.
3. China	do	May 22, 1948	6 months, 22 days.
4. Cuba	do	Jan. 1, 1948	2 months, 1 day.
5. France	do	do	Do.
6. India	do	July 9, 1948	8 months, 9 days.
7. Lebanon	do	July 30, 1948	9 months.
8. Netherlands	do	Jan. 1, 1948	2 months, 1 day.
9. Pakistan	do	July 31, 1948	9 months, 1 day.
10. Syria	do	do	Do.
11. United Kingdom	do	Jan. 1, 1948	2 months, 1 day.
III. Countries which did not put GATT into effect until after legislative action:			
1. Brazil	do	July 31, 1948	9 months, 1 day.
2. Burma	do	July 30, 1948	9 months.
3. Ceylon	do	do	Do.
4. Chile	do	Mar. 16, 1949	16 months, 17 days.
5. Czechoslovakia	do	Apr. 21, 1948	5 months, 21 days.
6. New Zealand	do	July 31, 1948	9 months, 1 day.
7. Norway	do	July 11, 1948	8 months, 11 days.
8. Southern Rhodesia	do	July 12, 1948	8 months, 12 days.
9. Union of South Africa	do	June 14, 1948	7 months, 14 days.

[1] Date of signature shown, in the case of the General Agreement on Tariffs and Trade, is the date of signature of the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment.

Senator MILLIKIN. Now we come to article XV, entitled "Exchange Arrangements." [Reading:]

1. The Contracting Parties shall seek cooperation with the International Monetary Fund to the end that the Contracting Parties and the Fund may pursue a coordinated 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 reserves, 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 theiintent 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 quantitiative 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. Nothing in this Agreement shall preclude:

(a) the use by a contracting party of or 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.

This is the interpretative note relative to 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.

Would you mind giving us an explanation of that article, Mr. Brown?

Mr. BROWN. One of the reasons for this article is this: That a limitation on imports, or a discriminatory limitation on imports can be effected with equal effectiveness by a quota, or by exchange controls, and it is one of the purposes of this agreement to limit to the use of that type of restriction.

Senator MILLIKIN. Do you agree with Mr. Clayton's testimony last year on the importance or lack of importance of exchange controls?

Mr. BROWN. I do not remember that.

Senator MILLIKIN. You do not remember it?

Mr. BROWN. We had a great deal of testimony on that.

Senator MILLIKIN. I will bring it to your attention later on.

Mr. BROWN. Therefore, we are endeavoring in this agreement to have a consistent treatment of the use of those two restrictive devices; so that when there are certain limitations in earlier parts of the agreement upon use of a quota, there should be comparable limitations upon the use of exchange controls. And where by the articles of agreement of the Monetary Fund, which has been established to deal with exchange problems, there are permissible uses of such controls, there should be similarly permissible uses of quantitative restrictions. It is an endeavor to get consistency into the use of two devices which can have the same effect. That is the reason why there is provision for a special exchange agreement between parties to the general agreement who may not be parties to the fund, and therefore may not be following the provisions of the fund agreement.

Senator MILLIKIN. The purpose of such a special agreement would be, would it not, to duplicate the fund's provisions as to those particular parties?

Mr. BROWN. Yes, sir.

The second important point in this article is that it makes the finding of the fund, on the facts as to the existence of balance-of-payments difficulties, conclusive. That was done because, clearly, the fund is the body which has been established by international agreement to deal with that kind of problem; it is the body which would have the expert information available; and on matters of fact in that field whatever it finds to be the fact should be accepted as controlling.

I may say that that was a provision that we attached considerable importance to getting into the agreement.

Would you care to have me comment on each paragraph?

Senator MILLIKIN. If you please.

Mr. BROWN. Paragraph 1 states the general point that I have just mentioned, that the limitation of trade by exchange controls and the limitation of trade by quantitative restrictions should be prohibited in the same cases and permitted in the same cases, because the devices do the same thing.

Paragraph 2 is the one which makes the finding of the fund conclusive as to the questions of fact.

Paragraph 3 provides for consultation.

Paragraph 4 is another way of giving effect to the principles stated in paragraph 1, that you won't use a quantitative restriction in such a way as to frustrate the fund agreement, or vice versa.

Paragraph 5 permits the contracting parties to call the matter to the attention of the fund if they feel that exchange controls are being used in a restrictive or discriminatory way which is not permitted under the agreement.

Paragraph 6 is the paragraph that requires the entering into of a special exchange agreement for the purposes I have outlined.

Paragraph 7 simply says that in the agreement you will do the same thing as is required under paragraph 4 if you don't have an agreement, but are members of the fund.

Paragraph 8 is a parallel provision, requiring the furnishing of certain information for nonmembers of the fund, which members of the fund would have to furnish.

And paragraph 9 simply says that the use of exchange controls which would be consistent with the fund agreement would not be considered a violation of this agreement.

Senator MILLIKIN. Is this article operating, so far as the fund is concerned?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. How is the agreement with the fund evidenced?

Mr. BROWN. There is an exchange of letters, I believe, between the chairman of the contracting parties and the fund in which the fund agrees that upon request it will make the findings which it is contemplated in this agreement that it would make.

Senator MILLIKIN. Have you a copy of the letter?

Mr. BROWN. Not with me, Senator, but I can easily provide it.

Senator MILLIKIN. May we have it?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Do you know whether the fund took formal action to authorize that letter? Or is it a chairman's letter?

Mr. BROWN. I think it is a managing director's letter.

Senator MILLIKIN. And does it follow specific authority to write the letter?

Mr. BROWN. I am advised that the executive directors of the fund authorized the sending of the letter.

Senator MILLIKIN. I would like to have the letter and also any minutes or resolutions or anything else that would tend to support the letter.

Mr. BROWN. Senator, I don't know that I can undertake to provide the minutes of an international body.

Senator MILLIKIN. They are not secret, are they?

Mr. BROWN. I just don't know. But I would not like to undertake to do so, because I am not sure whether I could or not. I will investigate.

Senator MILLIKIN. I do not see any harm in investigating.

Mr. BROWN. None whatever.

Senator MILLIKIN. And I think that you will find that the minutes, if there are any, will be forthcoming. We are not going to put a curtain of secrecy around this agency, are we, as far as our business is concerned?

Mr. BROWN. That is something over which we in the Department would have no control whatever, Senator.

Senator MILLIKIN. That, sir, is one of the defects of this multiple delegation of power that I am talking about.

May I invite your attention to article 5, section 1, of the fund agreement, called Agencies Dealing with the Fund? [Reading:]

Each member shall deal with the Fund only through its treasury, central bank, stabilization fund, or other similar fiscal agency. The Fund shall deal only with or through the same agencies.

Do you regard the contracting parties as a fiscal agency?

Mr. BROWN. No, sir.

Senator MILLIKIN. Have these articles of agreement been amended to permit dealing with the contracting parties?

Mr. BROWN. No, sir.

Senator MILLIKIN. I am speaking of the articles of agreement of the fund.

Mr. BROWN. This article 5, section 1, says that the members of the fund shall deal with it through their treasury or fiscal agencies. That contemplates a decision as to what action should be taken in the decisions of the fund itself.

I don't think this contemplates the matter of the dealings of the fund, for example, with the United Nations, or with outside groups or organizations.

Senator MILLIKIN. Supposing it does not. We are a member, are we not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And which of the contracting parties are not members?

Mr. BROWN. New Zealand, Burma, Ceylon, and Pakistan.

Senator MILLIKIN. So with those exceptions, each of those members, if it is to deal with the fund, must deal only through its treasury, central bank, stabilization fund, or other similar fiscal agencies. And you do not regard the contracting parties as a fiscal agency.

Mr. BROWN. I do not, sir. But I do not think this applies to the dealings with other outside groups. I would think this was the internal operation of the fund in terms of the decisions to what action should be taken by the fund.

Senator MILLIKIN. Now, you named four countries, did you not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Have they completed their agreements?

Mr. BROWN. You mean the application of the general agreement?

Senator MILLIKIN. I am speaking of their entering into an agreement so far as the Monetary Fund is concerned.

Mr. BROWN. No, sir. I thought you meant the general agreement.

Senator MILLIKIN. So they have no relationship at all with the fund?

Mr. BROWN. The special exchange agreement would not be with the fund.

Senator MILLIKIN. I understand that. But the special agreement might bring them into relationship with the fund.

Mr. BROWN. They have no special exchange agreement.

Senator MILLIKIN. So that you have four nations that are not members of the fund. I asked the question: Are they members? You have four nations that are not members of the fund and therefore have no relation to it.

Mr. BROWN. Yes.

Senator MILLIKIN. Those who are members of the fund find themselves confronted with article 5, section 1. The language seems very clear to me. In article 5, under "Agencies Dealing with the Fund" [reading]:

> Each member shall deal with the Fund only through its treasury, central bank stabilization fund, or other similar fiscal agency, and the Fund shall deal only with or through the same agencies.

So let me ask you again: Has the fund agreement been amended to permit the proposed type of relationship to the general agreement which we have been analyzing?

Mr. BROWN. No, sir, I don't think the fund agreement has been amended. I would assume that the fund has taken advice of counsel, and feels that the letter which it wrote was appropriate; but I am not qualified to speak to the question of whether a duly constituted international organization has or has not acted within the scope of its legal authority.

Senator MILLIKIN. Of course, if it is acting under the scope of its legal authority, we have no problem.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And that is why I am bringing to your attention this particular section: to raise the question as to whether the fund is acting within its authority if it should carry on these relationships which are contemplated by the general agreement. So that is one of the reasons why I would like to see whatever the resolutions are that have authorized the letter of the managing director.

Is it the managing director?

Mr. BROWN. The managing director; yes, sir.

Senator MILLIKIN. Now, Mr. Brown, I invite your attention again to this language [reading]:

> 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.

You do not regard that as a delegation of authority?

Mr. BROWN. No, sir. It seems to me only reasonable——

Senator MILLIKIN. My question is not whether it is reasonable. My question is whether it is a delegation of authority.

Mr. BROWN. No, sir; it is not. But this simply recognizes the fact that if the fund says that a country is living up to its obligations under the fund, the fund is the organization that ought to have the power to say that.

Senator MILLIKIN. All right. Does that preclude it from being a delegation?

Mr. BROWN. Yes, sir; I think it does.

Senator MILLIKIN. Why? What is your reasoning on that?

You can have a delegation to a fund which is authorized to consider the matter, or to any agency which is authorized to consider a given subject matter. Why not?

Mr. BROWN. I will accept that. Yes. It is a delegation in that sense.

Senator MILLIKIN. Of course it is a delegation. So your basic question is whether it is an authorized delegation. That is your basic question. And on that we seem unable to bring our minds together.

And it is an unequivocal delegation, is it not?

Mr. BROWN. It is a delegation that we did everything possible to make unequivocal and definite.

Senator MILLIKIN. And I think you have succeeded. I think you have done a very good job.

Now, the language makes the contracting parties a sort of enforcing agent for the Monetary Fund and vice versa. And I suggest that the effect of that is that it makes a sort of a membership drive committee for the fund out of the contracting parties. But even if true, you would see nothing wrong in that?

Mr. BROWN. No, sir.

Senator MILLIKIN. I am not so sure that I have advanced a legal argument. It just strikes me as interesting.

Again, what do you say is your authority for entering into the particular provisions which we have been discussing?

Mr. BROWN. All of these provisions with respect to quotas hang together, Senator.

Senator MILLIKIN. I am afraid you used an unfortunate word: It might be very fortunate if they did "hang together."

Let me invite your attention to paragraph 5? Now, there, the contracting parties—That, I take it, is in their joint role?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Take on an informing responsibility. Is that correct?

Mr. BROWN. No, sir. This is to cover the case where one of the contracting parties, or the contracting parties as a group thinks that one of the parties to the agreement has been frustrating its purposes and getting around its provisions by the use of exchange controls. And they bring that to the attention of the fund, to see whether that is justified, or not. I don't consider that an informing capacity, in the normal connotation of the word.

Senator MILLIKIN. I suggest that it makes complainants and informers out of the contracting parties.

Is this not correct: that the fund becomes a sort of a policeman of a part of our tariff policies?

Mr. BROWN. It is correct that the fund would have the determination of certain important facts as to whether or not a country were living up to the terms of this agreement in the use of limitations on its imports.

Senator MILLIKIN. I assume you did not like the word "policeman," and you are giving me an equivalent explanation. Is that right?

Mr. BROWN. Well, sir, I didn't quite care for the way you put it.

Senator MILLIKIN. What do you say is your authority for the provisions which we have been discussing in this article?

Mr. BROWN. The same authority which I described before, Senator; that underlies the right to enter into an agreement with respect to the use of quotas.

Senator MILLIKIN. That is an implied power from the Reciprocal Trade Agreements Act, under your theory.

Mr. BROWN. Speaking as a layman, I pointed out that the Trade Agreements Act specifically refers to restrictions as well as tariffs.

Senator MILLIKIN. Well, then, you would say that it may result from express language of the Trade Agreements Act. If it does not result from that, it results from the implications of the Trade Agreements Act. If it does not result from that, it may result out of the President's powers over foreign affairs, or from a combination of those factors. Is that correct?

Mr. BROWN. Exactly, sir. I thank you for the excellent statement of my position.

Senator MILLIKIN. Now, was the fund set up for the purpose of having control over tariff matters, or the part of the control which has been assigned to it?

Mr. BROWN. The fund was not established to have control over our tariff matters, or other nations' tariff matters.

Senator MILLIKIN. Or the part which has been assigned to it by this general agreement?

Mr. BROWN. Yes, sir. Because it was set up to deal with foreign exchange, monetary reserves, balances of payments.

Senator MILLIKIN. Was it set up to have a control over a part of our tariff policies?

Mr. BROWN. No, sir.

Senator MILLIKIN. Now, since you have given this power to the fund, which you say you have a valid right to do, what are the standards under which it will operate in its field of duty?

Mr. BROWN. It will make findings under article XII, 2 (a) of this agreement. That is to say, a serious decline in the contracting party's monetary reserves or a very low level of monetary reserves, and as to the rate of increase.

Senator MILLIKIN. And how far may it pursue its inquiries and action in the matter?

Mr. BROWN. That would depend on its powers under the fund agreement.

Senator MILLIKIN. Does the Reciprocal Trade Agreements Act say anything about that?

Mr. BROWN. No, sir. But so far as any question of providing information to the fund is concerned, we undertook that obligation when the Congress accepted membership in the fund.

Senator MILLIKIN. Well, what you are saying is that when Congress accepted membership in the fund it contemplated or it authorized the fund to exercise very important powers over part of our tariff policy.

Mr. BROWN. No, sir.

Senator MILLIKIN. Does that not follow?

Mr. BROWN. No, sir, I am saying that when Congress accepted membership in the fund it contemplated that the fund would deal with these matters of foreign exchange and monetary reserves and balances of payments, and the other things set forth in the fund agreement, and that to the extent that that involved furnishing information we undertook to do so as defined in the fund agreement.

Senator MILLIKIN. Do you say that when the Congress authorized our adherence to the fund it authorized the fund to make decisions as to a part of our tariff matters?

Mr. BROWN. No, sir.

Senator MILLIKIN. Does not this article tie our tariff policies to the exchange parities and other decisions affecting exchange which the

Monetary Fund may make, to the extent that those matters are relevant?

Mr. BROWN. This agreement says that on certain questions of fact, which are specified, the decision of the fund will be controlling; as to the consequences which follow from those facts and their effect on the tariff action of the parties to the agreement, that is determined by the agreement.

Senator MILLIKIN. I suggest it goes further than questions of fact. I suggest it goes to questions of decision. I suggest that when the fund presumably looks over the field of fact involved in a particular question and reaches a decision as to a policy matter, that decision becomes binding on the contracting parties.

Mr. BROWN. The agreement says that they shall accept the findings of fact of the fund. "All findings of statistical and other facts."

Senator MILLIKIN. Let us see what the language says, again, Mr. Brown. I am reading from article XV, paragraph 2:

> 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.

That goes beyond a mere naked certification of facts, does it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. By the same token, we subject our private traders to the decisions of the contracting parties and/or of the fund in tariff matters. Right?

Mr. BROWN. Yes.

Senator MILLIKIN. Do we find any authority for that, either in the reciprocal trade agreements, or in the fund agreement?

Mr. BROWN. Certainly, any authority that we have to deal with the tariff, with quotas, or to make agreements with other countries with respect to their use of tariffs or quotas, is an agreement which affects our private traders.

Senator MILLIKIN. All right. A private trader in private trade with another private trader in a foreign country, no matter what he would be willing to do insofar as exchange matters are concerned, must abide the decision of the contracting parties and/or of the fund. Right?

Mr. BROWN. As far as the exchange matters are concerned, he would have to abide them without this agreement.

Senator MILLIKIN. Without and with. Is that correct?

Mr. BROWN. This agreement adds nothing in that respect.

Senator MILLIKIN. Supposing it does not. I am driving to the question that the private trader, in dealing with another private trader in another country, might be unable to accept an exchange which would be entirely satisfactory to him if the contracting parties and/or the fund made rules or decisions to the contrary.

Mr. BROWN. Yes, Senator, but may I point out that that is true under any agreement. And it is true under the fact that any government which fixes an official exchange rate, or permits several rates, decides what the rate is going to be. There may be many private traders who do not like that, or there may be some who would

like it very much, but that is something that is inherent in any government's powers to fix its tariffs and fix its exchange rates.

Senator MILLIKIN. I am speaking now, Mr. Brown, not necessarily in terms of power. I am speaking now in terms of policy. There was a time when you, a producer of something in France, and I, a purchaser of that product in the United States, could make our own exchange agreement, and did. In making forward agreements, we might specify what the exchange should be. When the time came, the official exchange, if you could call it that, might be entirely different. Is that not correct?

Mr. BROWN. I don't know whether that is correct or not, sir.

Senator MILLIKIN. Oh, yes.

Mr. BROWN. I say I just don't know, because I haven't studied the history of it. But I do know that one of the things which is most distressing and unhappy for our private traders, has been the fact that there was fluctuation and variation and uncertainty as to exchange rates, and that they had to bargain with respect to particular exchange rates; and that is considered, speaking to the matter of policy now, by the business community generally, to be a most undesirable state of affairs and one in which it is most important to have a definite, fixed, and stable exchange rate, so that everyone can know where he is going and does not have to bargain with respect to it.

Senator MILLIKIN. I suggest to you that it is an undesirable state of affairs to have an arbitrary valuation of exchange and to straitjacket the world to that arbitrary system.

Mr. BROWN. I would agree that an arbitrary and unsoundly based exchange rate is most undesirable.

Senator MILLIKIN. Would you not say that the pars established by the member nations of the fund had a considerable element of arbitrariness in them? Would you not say that?

Mr. BROWN. I am sure I would not agree with all of them.

Senator MILLIKIN. Of course not. But nevertheless, those pars, subject to the few modifications that have been made by the fund are putting leg irons and handcuffs on the economy of the world, and we are tying ourselves to that, under this agreement; with leg irons and handcuffs. Correct?

You may not like my descriptions. But we are tying ourselves to that for better or worse. Right?

Mr. BROWN. Yes, sir. And I would guess that the majority of the business community would rather have a definitely known rate and a uniform rate, even though it was not exactly the right one, than to have to go out and bargain in each individual transaction.

Senator MILLIKIN. Mr. Brown, this business community wants to do business, and I suggest that you have rates here which are frustrating the purpose of your reciprocal trade agreements. I suggest to you that there are thousands and thousands of individual instances of such frustration which result from this arbitrary and perfectly absurd frozen inflexibility of the exchange system which we now have, which has the imprimatur of the fund. That goes to power as well as policy. And policy is very important there, I suggest.

You have set up a machinery here, I suggest, which gives the contracting powers, and/or the fund domination over what used to be the free right of decision of private traders to reach their own standards of value, while at the same time your Department is making speeches

about how you want to preserve the right of the free trader to trade freely.

Mr. BROWN. We do want to preserve the right of the free trader to trade freely, and that is one of the basic purposes of all of these negotiations and of this effort.

Senator MILLIKIN. Well, those certainly have been your proclaimed purposes.

Mr. BROWN. They are the real purposes.

Senator MILLIKIN. And let us say they are the real purposes. Let us say so.

Mr. BROWN. They are, sir.

Senator MILLIKIN. Let us say so. The question is: What have you done to effectuate your purpose? Have you done something to effectuate it? Or have you done something in the name of a good purpose that frustrates what you are trying to do? I suggest that through the operation of what we have been discussing you are frustrating your ideals, your professed purposes, what you call your real natural purposes.

Mr. BROWN. What are our real natural purposes, Senator?

Senator MILLIKIN. I am not denying you your right to proclaim them as your real and genuine and sincere purposes. But I suggest that you are frustrating, through the processes which we have described, that which you state is your purpose; and that becomes a matter of policy, and something which it is within the field of Congress at least to look at.

Mr. BROWN. I would quite agree, sir, that judgments might differ widely as to the effectiveness of what we have done.

Senator MILLIKIN. Mr. Brown, if you and I are trading in the way which was suggested, the trade between us cannot be increased by preventing us from reaching a decision as to what makes a fair trade. When you get into that kind of a thing, I suggest to you that, to use a hackneyed phrase, you are "socializing" the business of the world. Because it is the decision of government and not the decision of the individual that controls.

Coming back now to my first question to you: If you should find that I am wrong in my opening premise, that it used to be that two traders could establish their own rates of exchange for their own private transactions, I wish you would give me the authority to the contrary.

Mr. BROWN. You are correct, Senator, that businessmen could decide in their contract as to what the rate of exchange might be, just as they did as to what the price might be. But I would repeat that there are many members of the business community, who feel that they would rather be relieved of that negotiating problem.

Senator MILLIKIN. It may be that the arbitrary rate is the rate under which you can do business. And it may be just the other way; it may be that it frustrates doing business.

I know of instances where it does.

Are you bringing any part of article XV back to Congress?

Mr. BROWN. No, sir.

Senator MILLIKIN. Are the provisions of article XV of the general agreement and article 24 of the charter the same?

Mr. BROWN. No, sir; they are not the same, but the paragraphs in the general agreement are in the charter.

Senator MILLIKIN. The substance is the same?

Mr. BROWN. In article 24; yes.

Senator MILLIKIN. Let us come to article XVI, "Subsidies." [Reading:]

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 or 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.

What are the differences between article XVI of the general agreement and article 25 of the charter?

Mr. BROWN. Article XVI of the general agreement simply says that if any party to the agreement maintains a subsidy, either a domestic or export subsidy, and the operation of that subsidy has a harmful effect on the trade of another party, that other party can request consultation with respect to the use of the subsidy and see if they can work out some agreement to minimize or eliminate those harmful effects.

Senator MILLIKIN. Mr. Brown, I limited my question to article 25. I would like to have the question go to article 26, article 27, and article 28 of the charter as well.

Mr. BROWN. Those provisions of the charter, 26, 27, and 28, are provisions dealing with export subsidies, which do not appear at all in the general agreement. The only requirement in the general agreement with respect to any kind of subsidy is the one of information and consultation.

Senator MILLIKIN. May I invite your attention to article 28 of the charter, paragraph 1? It says [reading]:

1. Any Member granting any form of subsidy, which operates directly or indirectly to maintain or increase the export of any primary commodity from its territory, shall not apply the subsidy in such a way as to have the effect of maintaining or acquiring for that member more than an equitable share of world trade in that commodity.

Why did you omit that paragraph from article XVI or from some other appropriate article in the general agreement?

Mr. BROWN. I will have to think back a bit on that.

My own recollection on that is that all through the contemplation of this general agreement there has never been any more in it than just the consultation on subsidies. The charter, of course, goes into the question to a considerably greater extent, and has some elaborate provisions about subsidies. I think it was felt that the subsidy question was considerably less directly related to this agreement than it was to the broader scope of the charter.

Senator MILLIKIN. Under the charter, article 28, paragraph 1, it is contemplated that the organization will have power to determine what shall be the equitable share of world trade in commodities. Correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. We will come to that when we come to a more detailed consideration of the charter.

But in article XVI, you do not go that far.

Mr. BROWN. No, sir. In article XVI it is recognized that the use of a subsidy can sometimes have a harmful effect. It may frustrate a tariff concession, by prohibiting imports, or very materially reducing need for them; or it might have the opposite effect, of forcing an export. And it was felt that something should be included in which there should be at least consultation between the parties that were affected. That is all of the requirement.

Senator MILLIKIN. Well, a subsidy program, on agricultural products, for example, unless you have compensating controls, has an inherent tendency to increase production, has it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And thus, if it is a product that is in surplus, it has an inherent tendency to increase exports. Is that right?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And heretofore, the fixing of an internal subsidy has been considered to be the business of the nation that did it, and did not give any rights to other countries to complain.

Mr. BROWN. No, sir. But other countries have complained; and it is the normal practice of relationships with other nations that you do consult with them.

Senator MILLIKIN. I quite agree with that; but that does not go to my question. I say heretofore the imposition of a domestic subsidy was a matter of domestic concern and domestic right, and other countries did not have the right to question the matter. Is that right?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. What authority have you for this new departure from our established viewpoints?

Mr. BROWN. The authority to agree to consult with any country about a matter which is of mutual interest to us is, I would say, part of the President's general power.

Senator MILLIKIN. Well, it gives the other contracting parties the right to probe into what hitherto has been considered to be our own business.

Mr. BROWN. I wouldn't consider consulting about a trade matter of mutual interest as "probing," Senator.

Senator MILLIKIN. You do not like those words, do you?

Mr. BROWN. No, sir. That is one of the difficulties I have in giving categorical answers to a number of your questions.

Senator MILLIKIN. You like those soft, diplomatic terms?

Mr. BROWN. No, sir. As Mr. Thorp said, in one of his responses, I prefer to have my testimony in my own words.

Senator MILLIKIN. But you do not object to these consultations between us to try to bring our minds into agreement.

Mr. BROWN. I am thoroughly enjoying them, Senator.

Senator MILLIKIN. We were discussing, Senator Hoey, the inherent tendency of a domestic subsidy, we will say in agriculture, to increase production, unless there is some compensating restraint in production; and when the product is in surplus, to increase export.

I suggest to you, Mr. Brown, that it might be the deliberate purpose of Congress to subsidize agricultural crops, with a view of increasing

exports and dumping the surplus abroad. What authority have you to put even a moral prohibition against such action?

Mr. BROWN. We don't consider that it is a moral prohibition. If that were done, if Congress took that decision, the other countries concerned would come to us and tell us of the difficulties that it was creating for them; and we would, as we have always done, and as I am sure Congress would wish us to do, receive them courteously and consult with them about it, and see if there was any way where a choice had been left, so that the thing could be done in such a way as to cause them the least injury. And we would wish to have the same treatment accorded to us by other countries when they were doing things in a similar way which was injurious to our traders.

Senator MILLIKIN. Once again, I suggest, you are confusing your fine purpose with what may be your authority. You do not have the authority to accomplish all of the fine purposes that may be in your minds, do you?

Mr. BROWN. No, sir.

Senator MILLIKIN. Nor do we.

Do you intend to bring any part of this back to Congress?

Mr. BROWN. No, sir.

Senator MILLIKIN. On the ITO side, I invite your attention to paragraph 4 of article 28. It says [reading]:

> In making the determination referred to in paragraph 3, the Organization shall take into account any factors which may have affected or may be affecting world trade in the commodity concerned, and shall have particular regard to:
>
> (a) the Member country's share of world trade in the commodity during a previous representative period;
>
> (b) whether the Member country's share of world trade in the commodity is so small that the effect of the subsidy on such trade is likely to be of minor significance;
>
> (c) the degree of importance of the external trade in the commodity to the economy of the Member country granting and to the economies of the Member countries materially affected by, the subsidy,
>
> (d) the existence of price stabilization systems conforming to the provisions of paragraph 1 of Article 27;
>
> (e) the desirability of facilitating the gradual expansion of production for export in those areas able to satisfy world market requirements of the commodity concerned in the most effective and economic manner, and therefore of limiting any subsidies or other measures which make that expansion difficult.

That, I take it, you would say is a variation of the preceding powers intended for ITO, which we have already discussed. Is that correct?

Mr. BROWN. I am afraid I do not understand what you mean by "a variation of the preceding powers."

Senator MILLIKIN. Well, we will back up.

I invited your attention to article 28, paragraph 3, of ITO, reading:

> If, within a reasonable period of time, no agreement is reached in such consultation, the Organization shall determine what constitutes an equitable share of world trade in the commodity concerned and the Member granting the subsidy shall conform to this determination.

Mr. BROWN. Yes, sir. Paragraph 4 establishes guides to the Organization in making that determination, if it does.

Senator MILLIKIN. So that it is a part of this theme which we have already discussed, which goes to the Organization under the charter determining the equitable shares of the world trade to be assigned to the members.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Article XVII is entitled "Nondiscriminatory Treatment on the Part of State-Trading Enterprises." [Reading:]

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 nondiscriminatory treatment described in this agreement for governmental measures affecting imports or exports by private traders.

(b) The provisions of subparagraph (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 purhcases 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 subparagraph (a) of this paragraph) under its jurisdiction from acting in accordance with the principles of subparagraphs (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 resale or for use in the production of goods for sale. With respect to such imports, each contracting party shall accord to the trade of the other contracting parties fair and equitable treatment.

The interpretative notes:

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 subparagraphs (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 the 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.

Are these provisions the same as those of article 29 in the charter?

Mr. BROWN. Substantially so, Senator. There are some other provisions in the charter with respect to the operation of state-trading enterprises, but these two paragraphs and the notes in article XVII do appear as articles 29 and 30 in the charter.

Senator MILLIKIN. And with minor exceptions, the language is identical?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Will you name the contracting parties which maintain state enterprises?

Mr. BROWN. I think I should probably be correct in saying that all of them do.

Senator MILLIKIN. Which are the contracting parties which have more than an occasional or incidental state enterprise?

Mr. BROWN. In terms of dollar volume, Senator, the United States is the largest.

Senator MILLIKIN. All right. Go on.

Mr. BROWN. And the British and the French. I would say those were the principal ones. But I am sure that almost all of the contracting parties have, one way or another, some form of state enterprise.

Senator MILLIKIN. But in which countries do you find the problem, insofar as we are concerned, in its most acute form?

Mr. BROWN. That is hard to answer. It differs with different products.

Senator MILLIKIN. Well, Great Britain has three or four great lines of state enterprise.

Mr. BROWN. That is correct.

Senator MILLIKIN. And we are told there will be additional ones. Correct?

Mr. BROWN. Yes, most of their food imports, for example, are handled through the state.

Senator MILLIKIN. Coal is a state enterprise, steel is a state enterprise, and the Bank of England is a state enterprise. What else?

Mr. BROWN. The railways.

Senator MILLIKIN. The railways are a state enterprise; yes.

Mr. BROWN. And the post office.

Senator MILLIKIN. What is the situation in France?

Mr. BROWN. The most important monopoly in France that comes to my mind is the tobacco monopoly.

Senator MILLIKIN. Does not France own the railways?

Mr. BROWN. I think so, sir.

Senator MILLIKIN. How about Brazil?

Mr. BROWN. I just don't have the information here, Senator, as to the different forms of state trading in all the different parties to the general agreement. It varies with the different countries.

Senator MILLIKIN. I have here what purports to be a summary of extracts from foreign service reports of the State Department which gives a partial list. Would you mind looking it over and the next time we meet, telling us whether it is accurate as far as it goes, or what may be wrong with it, and also whether you have complete information as to that in the State Department? And will you bring it along with you?

Mr. BROWN. I will be very glad to, Senator. I would think that any complete description would be a rather burdensome job, because in order to be complete, you would have to go down into some pretty small things.

Senator MILLIKIN. Tell me what you find out, and then we can decide whether it would burden the record unduly to put it in.

Mr. BROWN. All right, sir.

Senator MILLIKIN. Now, will you give us a description, if you please, Mr. Brown, of the type of difficulties which our private enterprisers have when they export to, or import from a state trading

country. Let us take Russia; let us take Great Britain. They are enough to start on.

Mr. BROWN. There are a number of difficulties for the private trader which are inherent in trading with a government enterprise. In the first place, the government enterprise is usually considerably larger, has larger financial resources, and might be able to preempt a market, where the individual private concern, even though of substantial size, could not hope to do so. It can offer probably longer-term contracts. And there are always in the background, when the government is in the picture, considerations other than the normal considerations of the market place.

All of those things put the private concern at a very considerable disadvantage. And it was for that reason that we have been for a long time trying to develop some set of principles and rules which we could agree on, by which the state trading enterprise should undertake to govern its activities, and to try to minimize the difficulties, the competitive disadvantages, between the state trader and the private trader, and to try to eliminate to the maximum extent possible the considerations, political or otherwise, which would differ from the considerations of the market place.

That is the reason why there is an article of this kind in this agreement. As I said earlier, in response to one of your questions, we do not feel that this is a particularly effective provision. The statement that a state trading enterprise should be guided by commercial considerations in its operation is good, and it is the ultimate objective which we are seeking to achieve. The reason why I say that we are not wholly satisfied with it is because of the difficulties of enforcement, the difficulties of proof, which are inherent in dealing with any state trading enterprise.

But nevertheless, it does represent, in our opinion, a step in the right direction, and would be a basis for representations if there were evidence that a state trading operation were not complying with it, and that noncompliance was having the effect of injuring the trade of any one of the member parties.

Senator MILLIKIN. The impact of the business done by a state trading organization has the natural tendency to destroy competition, has it not?

Mr. BROWN. Either that, or to drive other countries into the same technique, so that you get competition between giants rather than competition between a multitude of smaller traders.

Senator MILLIKIN. In other words, if we were in the situation, for example, of trying to export rails for the railroads of England, we would have to make our exports, since there is no competition, on terms set down by that state trading enterprise.

Mr. BROWN. Yes, sir. Sometimes that works out satisfactorily and sometimes it doesn't. But there is always the possibility that that will be unsatisfactory, and that the state will guide itself by reasons that are other than the reasons that would normally apply, of a good product at a better price, better terms of delivery, a responsible supplier, and so forth.

Senator MILLIKIN. Except as you may be able to restrain it—I am not admitting for a moment that you are restraining it—by

agreement of this kind, the state trading enterprise sets the price which it will pay and the conditions under which it will pay, and receive the goods, and so forth, unmitigated by the influences of competition.

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. The same is true as to exports of such enterprises. Is that correct?

Mr. BROWN. That is correct.

Senator MILLIKIN. I am not ready to say that it has to be that way, but can you think of any instances where there is not a measurable or unmeasurable subsidization in the commercial transactions of a state trading enterprise?

Mr. BROWN. I have often heard it said, Senator, that the state trading enterprise had a negative subsidization in it, in that it was much less efficient and much more costly to operate than the private.

Senator MILLIKIN. But initially you will frequently find a subsidization there. The whole operation, the whole system, may produce an inefficient result. But how can you avoid a measure of subsidization in many of those State enterprises?

Mr. BROWN. That possibility is always present there.

Senator MILLIKIN. And that, of course, is what makes our difficulty in trying to draw up restraints on it. A part of the difficulty arises, I suggest, out of the fact that there is hardly any yardstick with which you can measure the result of that subsidization. In other words, you have to consider their whole political program, their whole economic program, in relation to this specific product that you are talking about, and the program of that particular State enterprise. Is that not correct?

Mr. BROWN. No, sir. That might be correct in some cases, but it is also not correct in others. I think we discussed that earlier and I tried to point out that there were a good many cases where you have objective facts to which you can refer to find out the element of departure from the commercial considerations which might be involved in a given transaction or set of transactions.

Senator MILLIKIN. I would not contend that you are always unable to measure the subsidization.

Mr. BROWN. I would quite agree on the point you made earlier, that if you are considering whether and to what extent there is an element of subsidization in the general level of exports of a country because of its domestic policies of price control and so forth, that would be an almost impossible task. But in the buying and selling operation of a particular enterprise, there is quite often a good chance of finding objective criteria which you could use to assist in the application of this article.

Senator MILLIKIN. Take the problems, for example, that are posed by that interpretative paragraph 1 (a), which follows the main text of article 17. [Reading:]

> 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."

Mr. BROWN. I think that is designed to cover the ordinary concession case, Senator, such as our oil concessions in the Middle East.

Senator MILLIKIN. I was going to ask you that.

Mr. BROWN. Or that type of development project, where a private concern goes in and gets a concession for a period. That would not be considered to be within the scope of this article.

Senator MILLIKIN. Well, but you can see that a concession that would grant the beneficiary a vast amount of land for exploitation of whatever the product might be, which would free him of any capital investment to acquire any land of that kind, or to lease it in a normal way, might be a tremendous subsidization. And yet when you have to measure, "just what is this worth?" you would have a very, very difficult job.

Mr. BROWN. In that case, Senator, I think I would rely on the normal instinct of the country granting the concession to get paid for it.

Senator MILLIKIN. Well, it would be very difficult to figure the pay. If you make an oil lease, for example, and you agree to pay a 12½ percent royalty, it would be a very difficult job to say what that 12½ percent was worth until you had really explored the property. To determine whether you had received something for nothing in the first instance would be a very difficult job. We have developed, in practice, some ways of measuring those things. If you get a lease without any down payment, for, we will say, a 12½ percent royalty, standard form, and I get a lease on comparable ground next to you covering the same amount of ground, the same royalty on the same standard form, and I have to pay ten, twenty, fifty, or a hundred dollars an acre, and if that is the common experience in that field, I have some kind of a measuring stick against which to determine whether you have received anything for nothing, or for less than full consideration. But when you get into those vast concessions, these unexplored, undeveloped concessions, you have no problem until you find something; and then, when you find something, you really have a problem in determining what it is worth.

Are you going to bring any part of that article back to Congress?

Mr. BROWN. No, sir.

Senator MILLIKIN. Article XVIII is entitled "Governmental Assistance to Economic Development and Reconstruction."

Mr. BROWN. I think this is the longest.

Senator MILLIKIN. Yes; this is long and exceedingly important. I think perhaps the most we could do, Mr. Chairman, would be to read it into the record. And in the interests of continuity and not having to do it all again when we meet again, perhaps this is an appropriate time to recess.

Senator HOEY. I was just about to ask you if you were ready to suspend now.

Senator MILLIKIN. This is a very lengthy paragraph, and a very important one.

Senator HOEY. Perhaps it would be well, then, to recess at this time.

Mr. BROWN. I would be very glad, as far as I am concerned, for the purposes of continuity, to take it as read, if you would like to do that.

Senator MILLIKIN. No; I do not want to take it as read, because we have not only ourselves to consider, but there are a few exceedingly patient people who are gluttons for punishment who come here to hear this discussion, and I think they are entitled to know what we are talking about.

Senator HOEY. Suppose we suspend at this point, then, Senator?

Senator MILLIKIN. All right.

Senator HOEY. We will meet tomorrow at 10 o'clock. We will not be in session this afternoon.

(Whereupon, at 11:40 a. m., the committee recessed to reconvene at 10 a. m. Tuesday, March 1, 1949.)

EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT

TUESDAY, MARCH 1, 1949

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to adjournment, in room 312, Senate Office Building, Senator J. Howard McGrath presiding.

Present: Senators McGrath (presiding), Millikin, Butler, and Martin.

Senator MCGRATH. The committee will come to order.

Senator MILLIKIN. Mr. Brown, have you any more comments on article XVII?

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE, WASHINGTON, D. C.—Resumed

Mr. BROWN. No, sir.

Senator MILLIKIN. Then we will proceed to article XVIII, which is entitled "Governmental Assistance to Economic Development and Reconstruction." [Reading:]

1. The Contracting Parties recognize that special governmental assistance may be required to promote the establishment of particular industries or 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. The Contracting Parties and the contracting parties concerned shall preserve the utmost secrecy in respect of matters arising under this article.

3. If a contracting party, in the interest of its economic development or reconstruction, or for the purpose of increasing a most-favored-nation rate of duty in connection with the establishment of a new preferential agreement in accordance with the provisions of paragraph 3 of Article I, considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with an obligation which the contracting party has assumed under Article II of this agreement, but which would not conflict with other provisions in this Agreement, such contracting party

(a) shall enter into direct negotiations with all the other contracting parties. The appropriate Schedules to this Agreement shall be amended in accordance with any agreement resulting from such negotiations; or

(b) shall initially or may, in the event of failure to reach agreement under subparagraph (a), apply to the Contracting Parties. The Contracting Parties shall determine the contracting party or parties materially affected by the proposed measure and shall sponsor negotiations between such contracting party or parties and the applicant contracting party with a vew to obtaining extraditions and substantial agreement. The Contracting Parties shall establish and communicate to the contracting parties concerned a time schedule for such negotiations, following as far as practicable any time

schedule which may have been proposed by the applicant contracting party. The contracting parties shall commence and proceed continusously with such negotiations in accordance with the time schedule established by the Contracting parties. At the request of a contracting party, the Contracting Parties may, where they concur in principle with the proposed measure, assist in the negotiations. Upon substantial agreement being reached, the applicant contracting party may be released by the Contracting Parties from the obligation referred to in this paragraph, 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 action initiated under Paragraph 3 there should be an increase in imports of any product concerned, including products which can be directly substituted therefor, which if continued would be so great as to jeopardize the establishment, development or reconstruction of the industry or branch of agriculture concerned, and if no preventive measures consistent with the provisions of 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, provided that such measures do not restrict imports more than necessary to offset the increase in imports referred to in this subparagraph; except in unusual circumstances, such measures shall not reduce imports below the level obtaining in the most recent representative period preceding the date on which the contracting party initiated action under paragraph 3.

(b) The Contracting Parties shall determine, as soon as practicable, whether any such measures should be continued, discontinued, or modified. It shall in any case be terminated as soon as the Contracting Parties determine that the negotiations are completed or discontinued.

(c) It is recognized that the relationships between contracting parties under Article II of this Agreement involve reciprocal advantages, and therefore any contracting party whose trade is materially affected by the action may suspend the application to the trade of the applicant contracting party of substantially equivalent obligations or concessions under this Agreement provided that the contracting party concerned has consulted the Contracting Parties before taking such action and the Contracting Parties do not disapprove.

5. In the case of any nondiscriminatory measure imports which would apply to any product in respect of which the contracting party has assumed an obligation under Article II of this Agreement and which would conflict with any other provision of this Agreement, the provisions of subparagraph (b) of paragraph 3 shall apply; provided that before granting a release the Contracting Parties shall afford adequate opportunity for all contracting parties which they determine to be materially affected to express their views. The provisions of paragraph 4 shall also be applicable in this case.

6. If a contracting party in the interest of its economic development or construction considers it desirable to adopt any nondiscriminatory measure affecting imports which would conflict with the provisions of this Agreement other than Article II, but which would not apply to any product in respect of which the contracting party has assumed an obligation under Article II, such contracting party shall notify the Contracting Parties and shall transmit to the Contracting Parties a written statement of the considerations in support of the adoption, for a specified period, of the proposed measure.

7. (a) On application by such contracting party the Contracting Parties shall concur in the proposed measure and grant the necessary release for a specified period if, having particular regard to the applicant contracting party's need for economic development or reconstruction, it is established that the measure

(i) is designed to protect a particular industry established between 1 January 1939 and 24 March 1948, which was protected during that period of its development by abnormal conditions arising out of the war; or

(ii) is designed to promote the establishment or development of a particular industry for the processing of an indigenous primary commodity, when the external sales of such commodity have been materially reduced as a result of new or increased restrictions imposed abroad; or

(iii) is necessary in view of the possibilities and resources of the applicant contracting party to promote the establishment or development of a particular industry for the processing of an indigenous primary commodity, or for the processing of a by-product of such industry, which would otherwise be wasted, in order to achieve a fuller and more economic use of the applicant contracting party's natural resources and manpower and, in the long run, to

raise the standard of living within the territory of the applicant contracting party, and is unlikely to have a harmful effect, in the long run, on international trade; or

(iv) 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 is the one most suitable for the purpose having regard to the economies of the industry or branch of agriculture concerned and to the applicant contracting party's need for economic development or reconstruction.

The foregoing provisions of this subparagraph are subject to the following condition:

(1) Any proposal by the applicant contracting party to apply any such measure, with or without modification, after the end of the initial period, shall not be subject to the provisions of this paragraph; and

(2) The Contracting Parties shall not concur in any measure under the provisions of (i), (ii), or (iii) above, which is likely to cause serious prejudice to exports of a primary commodity on which the economy of the territory of another contracting party is largely dependent.

(b) The applicant contracting party shall apply any measure permitted under subparagraph (a) in such a way as to avoid unnecessary damage to the commercial or economic interests of any other contracting party.

8. If the proposed measure does not fall within the provisions of paragraph 7, the contracting party

(a) may enter into direct consultations with the contracting party or parties which, in its judgment, would be materially affected by the measure. At the same time, the contracting party shall inform the Contracting Parties of such consultations in order to afford them an opportunity to determine whether all materially affected contracting parties are included within the consultations. Upon complete or substantial agreement being reached, the contracting party interested in taking the measure shall apply to the Contracting Parties. The Contracting Parties shall examine the application to ascertain whether the interests of all the materially affected contracting parties have been duly taken into account. If the Contracting Parties reach this conclusion, with or without further consultations between the contracting parties concerned, they shall release the applicant contracting party from its obligations under the relevant provision of this Agreement, subject to such limitations as the Contracting Parties may impose, or

(b) may initially, or in the event of failure to reach complete or substantial agreement under subparagraph (a), apply to the Contracting Parties. The Contracting Parties shall promptly transmit the statement submitted under paragraph 6 to the contracting party or parties which are determined by the Contracting Parties to be materially affected by the proposed measure. Such contracting party or parties shall, within the time limits prescribed by the Contracting Parties, inform them whether, in the light of anticipated effects of the proposed measure on the economy of the territory of such contracting party or parties, there is any objection to the proposed measure. The Contracting Parties shall,

(i) if there is no objection to the proposed measure on the part of the affected contracting party or parties, immediately release the applicant contracting party from its obligation under the relevant provision of this Agreement; or

(ii) if there is objection, promptly examine the proposed measure, having regard to the provisions of this agreement, to the considerations presented by the applicant contracting party and its need for economic development or reconstruction, to the views of the contracting party or parties determined to be materially affected, and to the effect which the proposed measure, with or without modification, is likely to have, immediately and in the long run, on international trade, and, in the long run, on the standard of living within the territory of the applicant contracting party. If, as a result of such examination, the Contracting Parties concur in the proposed measure, with or without modification, they shall release the applicant contracting party from its obligations under the relevant provision of this Agreement, subject to such limitations as they impose.

9. If, in anticipation of the concurrence of the Contracting Parties in the adoption of a measure referred to in paragraph 6, there should be an increase or threatened increase in the imports of any product concerned, including products

which can be directly substituted therefor, so substantial as to jeopardize the establishment, development or reconstruction of the industry or branch 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 decision by the Contracting Parties on the contracting party's application; provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which notification was given under paragraph 6.

10. The Contracting Parties shall, at the earliest opportunity but ordinarily within fifteen days after receipt of an application under the provisions of paragraph 7 or subparagraphs (a) or (b) of paragraph 8, advise the applicant contracting party of the date by which it will be notified whether or not it is released from the relevant obligation. This shall be the earliest practicable date and not later than ninety days after receipt of such application; provided that, if unforeseen difficulties arise before the date set, the period may be extended after consultation with the applicant contracting party. If the applicant contracting party is not so notified by the date set, it may, after informing the Contracting Parties, institute the proposed measure.

11. Any contracting party may maintain any nondiscriminatory protective measure affecting imports in force on 1 September 1947 which has been imposed for the establishment, development, or reconstruction of a particular industry or branch of agriculture and which is not otherwise permitted by the Agreement; provided that notification has been given to the other contracting parties not later than 10 October 1947 of such measure and of each product on which it is to be maintained and of its nature and purpose.

12. Any contracting party maintaining such measure shall within sixty days of becoming a contracting party submit to the Contracting Parties a statement of considerations in support of the maintenance of the measure and the period for which it wishes to maintain it. The Contracting Parties shall, as soon as possible, but in any case within 12 months from the date 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 paragraphs 1 to 10 inclusive of this article.

13. The provisions of paragraphs 11 and 12 of this article shall not apply to any measure relating to a product in respect of which the contracting party has assumed an obligation under Article II of this Agreement.

14. In cases where the Contracting Parties decide that a measure should be modified or withdrawn by a specified date, they shall have regard to the possible need of a contracting party for a period of time in which to make such modification or withdrawal.

We will come to the interpretative clauses later.

Now, Mr. Brown, is this article the same in substance as article XIII of ITO?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Is it an identical language?

Mr. BROWN. Almost identical.

Senator MILLIKIN. Are there any departures between the two, having any significance?

Mr. BROWN. No; there is no difference in substance, Senator. Actually, the substance of paragraphs 11, 12, 13, and 14 is in article 14 of the ITO Charter, but they are all there.

Senator MILLIKIN. Then we need not note any differences in this discussion.

Mr. BROWN. No, sir.

Senator MILLIKIN. Would you mind explaining the article?

Mr. BROWN. This article is designed to recognize the fact that in certain cases, particularly where you have so-called infant industry, it may be necessary and legitimate to use special protective measures, such as high tariff or a quota in order to get the industry started and get it on its feet.

On the other hand, the parties to this agreement were anxious to see that the infant industry argument and the infant industry justification were not indiscriminately used. Therefore they specified the conditions under which departure from the provisions of the agreement might be legitimate for the purpose of protecting and getting started a new industry.

The article falls into three parts, dealing with three different situations, rather than having it in three separate articles; which is one of the reasons why it seems so long and complicated.

The first situation covered in section A, covers paragraphs 3 and 4.

Senator MILLIKIN. Section 3?

Mr. BROWN. Section A, including paragraphs 3 and 4 of the article.

Senator MILLIKIN. I am off the track on that. Will you talk about paragraph numbered 3?

Mr. BROWN. There is a subsection heading "A," which may have been cut off in your document. I am speaking of paragraphs numbered 3 and 4.

Senator MILLIKIN. Yes; that is what I could not find.

Mr. BROWN. But it appears in the record and in the agreement.

That is the situation in which a party which has made a tariff concession finds, after a period of time, that it may need to expand or develop an industry on which a concession has been made: and in that case it may apply, under this article, to the other parties to the agreement and seek their consent to a modification of the rate which has been agreed upon in the schedule. If that agreement is reached, it may then increase the rate in accordance with the agreement. If agreement is not reached, it must continue to abide by the rate which it had agreed to in the first place.

So that what subparagraph (a) provides for is for negotiation to reach agreement. The contracting parties are given a sort of general supervision over the negotiations, to see that they move expeditiously and that there may not be unreasonable delay on the part of the other negotiators.

Paragraph 4 covers the case where rumors get around that there may be a tariff increase, and people start piling up their imports. It simply provides that a preventive measure may be taken to prevent that from happening.

In paragraph 5 you have a case where, rather than the imposition of an increased tariff rate, the party making the application may have in mind a quota and may see agreement to the use of a quota. The same principle applies: That they must obtain the agreement of the other parties. If they don't, they can't do it.

The remaining paragraphs under section C, that is, paragraphs 6 through 10, deal with the case where a party may wish to use a quota to protect a product which is not included in the schedules; and establishes procedures and criteria whereby it may get permission to do so. In that case the quota would not violate any agreement with the other contracting parties with respect to a tariff rate, but it would be inconsistent with the provisions of the agreement generally limiting the use of quotas.

That is, of course, in view of the scope of the schedules to the agreement, much the smallest area of trade for the parties to the agreement.

Senator MILLIKIN. Do you have any examples of what was in mind as to articles not scheduled?

Mr. BROWN. Yes, sir; I can give you two. In the case of Mexico, for example, they have a considerable production of cattle, as you know, and they cannot now export that cattle to the United States, because of the existence of the foot-and-mouth disease and the complete embargo. They would be able, under this article, to protect an industry for the processing of the meat in Mexico, so that they could use the cattle, a normal market for which had been cut off by some new development or unexpected circumstance.

Senator MILLIKIN. What are your precedents for this article?

Mr. BROWN. Basically what this article does, certainly in the first two sections which I have described, is simply to say that if, after an agreement has run for a while, one of the parties finds that it wants to modify a tariff rate in order to develop an industry, the product of which was included in the schedules, it can renegotiate that rate. That is not a new principle. I suppose that in any of our preexisting agreements either party could approach the other for a renegotiation of a particular rate involved in the schedule, or for the use of a quota on a particular article involved in the schedule. That is essentially what the article does.

It provides a means where, by consultation, particular exceptions to the rate treatment or quota treatment prescribed by the agreement can be arrived at.

Senator MILLIKIN. What are the precedents for this?

Mr. BROWN. This article has never appeared before in any of our trade agreements.

Senator MILLIKIN. This is an entirely novel subject matter under all of the precedents you know about?

Mr. BROWN. Except to the extent that I have mentioned, Senator; that basically it is a renegotiation of a particular provision of the agreement. But it has never appeared before in this form in any of our agreements.

Senator MILLIKIN. Has it not always been considered that a sovereign nation had the power to afford protection for an infant industry or for an infant agricultural production of one kind or another?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. So this is a rather wide departure from the concept on that.

Mr. BROWN. No, sir. Because this says that when a sovereign power has agreed that it would limit the protection which it affords to that industry to a certain amount of tariff or to a certain quantitative restriction, then it will not depart from that agreement except by the consent of the other party to the agreement.

Senator MILLIKIN. Well, is that not a novel departure? We were talking about what is the inherent power of a sovereign nation to protect an infant industry; and now you would have attached the condition of consent of other sovereign powers.

Mr. BROWN. Yes, sir. In the Trade Agreements Act the Congress gave the President authority to negotiate with respect to United States tariff rates within certain limits and to agree upon certain levels of those rates. Now, having done that and having agreed with another power that its rates would be at a certain level on certain products, all this says is that if you want to change that you have got to get the consent of the parties with which you have the agreement.

Senator MILLIKIN. But prior to the advent or effectiveness of this article, and prior to the whole scheme set up in this general agreement, a nation which was running its tariffs on a unilateral basis could do as it pleased about protecting or not protecting the so-called infant industry?

Mr. BROWN. I take it you are referring to the third part of the article, which deals with items which are not in the tariff schedules.

Senator MILLIKIN. I am speaking of items which are or are not in a unilateral tariff schedule. It would be within the power of Congress to take off protection or to add protection, would it not, under that kind of a system?

Mr. BROWN. If there is no international agreement with respect to those rates; yes sir.

Senator MILLIKIN. Now, then our inquiry goes here as to what is the substance of this international agreement. I suggest to you that there is very wide departure from normal conceptions and past precedents in allowing an international body to determine for us or for any other contracting party which infant industry shall have protection and which shall not have protection.

Let me ask you another question. They both go together. Is that not the purpose of article XVIII?

Mr. BROWN. The purpose of article XVIII is to recognize that the protection of an infant industry is a legitimate subject for consultation between the parties to this agreement, and that with respect to items included in the schedules, and on which there has been agreement as to the level of protection, that agreement may not be modified without the consent of the people who made the agreement; and on items which are not in the schedules, the party wishing to protect can use any tariff rate it wants, of course, but if it wants to use a quota and thereby deviate from the general provisions of the agreement it would have to get the consent of the affected parties or of the parties as a group.

Senator MILLIKIN. If the Congress of the United States should decide that any one of the innumerable infant industries which may spring out of our technological developments should be given special protection under this article, it could not make that decision unless it received permission from the contracting parties.

Mr. BROWN. It would depend on the nature of the protection which it wished to give. If the Congress wished to give increased tariff protection, and the item was included in the schedules of this trade agreement, then we would have to get the consent of the other parties to the agreement to the change of the rate. That was true under every trade agreement which we have entered into in the past. If the protection was desired to be given by increased tariff to an item which was not in the schedules, then we would be free to put on any tariff rate we wanted, without talking to anybody else involved in this agreement. If the protection desired to be put on was a quota, then consultation and agreement with the other parties to the agreement would be required.

Senator MILLIKIN. In end effect, by our reciprocal trade agreements and under the terms of this article, the Congress could not give its own type of infant industry protection if it felt inclined to do so, without the consent of the contracting parties, where a schedule is involved.

Mr. BROWN. That has been true under every trade agreement that we have.

Senator MILLIKIN. Let us assume that it is true. That arises by virtue of the way you have conducted your reciprocal trade agreements.

Mr. BROWN. Yes. And by reason of the authority which the Congress has delegated to us, specifically.

Senator MILLIKIN. Now you have jumped upon that springboard and have taken a terrific dive. Because that is a basic question which has not been settled here and cannot be settled here, as to what authority Congress gave you. In other words, you are claiming, Mr. Brown, that under your composite of authority under the Reciprocal Trade Agreements Act, Congress could not give protection to a listed, agreed upon article which is already in these reciprocal trade agreements without the consent of the contracting parties.

Mr. BROWN. Yes, sir. And I claim that that is specifically and in terms granted by us by the Trade Agreements Act as amended, which gives the President the authority to proclaim such changes in duties and such changes in import restrictions as are necessary to carry out a foreign trade agreement. And I claim that comes precisely and specifically within the authority given us by the Congress.

Senator MILLIKIN. I would not say, when you are dealing with an infant industry, that you have any specific authority. You, of course, are reasoning that you have authority out of the language, but the language is not referred to.

Senator MILLIKIN. It does not refer to infant industries.

Mr. BROWN. It refers to all industries, Senator.

Senator MILLIKIN. I am saying it does not refer to infant industries.

Mr. BROWN. Of course not.

Senator MILLIKIN. Of course not. And that might be considered be Congress to be a matter of special concern to it; I suggest should be a matter of special concern to it. And you have now worked this thing around to the point where if the Congress wanted to give special protection to the infant industry, it could not do so without the consent of the contracting parties.

Mr. BROWN. We inferred that the Congress did not desire to have special treatment given, because it made no reservation in the authority which it granted to us.

Senator MILLIKIN. And you feel that the Congress intended, when it passed the Reciprocal Trades Act, that you were authorized to put the disposition of that problem into the hands of an international body?

Mr. BROWN. No, sir. I feel that the Congress gave the President authority, within the limits specified, to fix the tariff rate and the import restrictions on any article in the United States tariff.

Senator MILLIKIN. Yes.

Mr. BROWN. And to make an agreement with another country about that, with the inevitable consequence that the other country secures an interest in that rate.

Senator MILLIKIN. And you feel that the Congress gave the President the power to resolve those questions by his agreement that a group of nations, by majority vote, could resolve the question?

Mr. BROWN. I think the Congress gave authority to the President to make an agreement fixing the level of protection, be it tariff or quota, for items in the United States tariff. And when you enter into an agreement, clearly you can't change that agreement without the consent of the other party or parties to it.

Senator MILLIKIN. Of course, the basic question goes to the validity of the agreement. So I will ask you again: It is your contention, and you have made it before this in connection with other articles, that the President could agree that the decision on these matters may be made by a majority vote of a group of nations who are parties to the agreement.

Mr. BROWN. It would not be by majority vote in the case of sections A and B of this article. It would be by consent of the parties materially interested in the concession. And that has been the case with respect to every trade agreement which we have entered into.

Senator MILLIKIN. You claim that there are no provisions in this article which put the decision of the particular question up to the contracting parties?

Mr. BROWN. In section C; yes, sir. That is with respect to quotas on nonscheduled items.

Senator MILLIKIN. And as to section C, the nonscheduled items, as to which there has been no agreement, you claim that the President has the right to make an agreement with a group of foreign nations whereby decision on those items shall be determined by a majority vote of those countries?

Mr. BROWN. Yes, sir; for the same reason that I gave you in connection with our discussion of quotas on previous days.

Senator MILLIKIN. And we have one vote out of how many?

Mr. BROWN. Twenty-three.

Senator MILLIKIN. You do not regard that as a rather novel departure from what we thought were the constitutional powers that rested in the President and on the Congress?

Mr. BROWN. I think it is within the President's authority, sir.

Senator MILLIKIN. Have you found that case for me that would deal with delegations of the type that we have been discussing?

Mr. BROWN. No, sir.

Senator MILLIKIN. Have you searched for one?

Mr. BROWN. I have my lawyers looking, Senator. I have not searched.

Senator MILLIKIN. The lawyers have been searching?

Mr. BROWN. Yes. I haven't searched recently. I have forgotten how to use a law book.

Senator MILLIKIN. The lawyers have been searching, though, and they have not found it yet?

Mr. BROWN. They have not, sir.

Senator MILLIKIN. Well, let us get into some of these provisions. Now, in paragraph 1 it states, referring to the contracting parties [reading]:

> At the same time they recognize that an unwise use of such measures—

those would be measures for the encouragement of an infant industry—

> 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.

Is this not another recognition that each contracting party, under this general agreement, has enforceable rights as to how each contracting party shall handle itself with respect to its internal problems?

Mr. BROWN. No, sir.

Senator MILLIKIN. Would you mind elaborating?

Mr. BROWN. This simply states a recognition of the fact that if a lot of countries go around throwing up arbitrary and unjustified trade barriers it is going to have an adverse effect upon international trade generally and the trade of the parties to the agreement specifically. It gives no right to any country to interfere in any other country's internal management. It imposes no commitment. It recognizes a fact, states an attitude, and is something that exists now without the agreement. Of course we are interested in the barriers to our trade which other countries impose; and, vice versa, they are interested in the barriers to their trade which we might impose.

Senator MILLIKIN. In other words, paragraph 1 is a sort of a declaration of purpose?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. All right. Then, paragraph 2 [reading]:

The Contracting Parties and the contracting parties concerned shall preserve the utmost secrecy in respect of matters arising under this Article.

Did you give the reason for that a while ago?

Mr. BROWN. Yes, sir. When traders know that a measure is likely to be imposed, they will hold off the market, or they will flood the market, and get an advantage which is not open to everybody else. That is the only reason for that provision.

Senator MILLIKIN. Would not the private enterprises have an interest in the facts as they developed? The private enterprises who might be figuring on building up an infant industry?

Mr. BROWN. Yes, sir. But if they were figuring on building up the industry, they would want the secrecy preserved; because if it was known that that was what we were going to do, there would be a flood of imports, just to get in under the deadline before the measure went into effect.

Senator MILLIKIN. I could see where that would be possible. I could see also where they might want to know every development of this business, so that they could handle themselves in doing what was necessary to get the infant industry established, if the contracting parties permitted them to establish it.

Let us go to 3. [Reading:]

If a contracting party, in the interest of its economic development or reconstruction, or for the purpose of increasing a most-favored-nation rate of duty in connection with the establishment of a new preferential agreement—

I notice that "preferential agreement" runs through a number of succeeding paragraphs. That is merely a variation of the theme, is it not?

Mr. BROWN. That is a technical point, sir: that if a new preference were permitted under that particular minor exception with respect to the Ottoman Empire, which appeared earlier, in article I, it might involve a change in the most-favored-nation rate, which would mean an alteration of the schedule. It is designed to hit that particular point and that only.

Senator MILLIKIN. It is merely a variation of what the restriction may be. In one kind of case, it might be by tariff. In another kind of case, it might be by quota. In another type of case, it might be by a preference.

Mr. BROWN. No, sir.

Senator MILLIKIN. That is what I wanted to get straight.

Mr. BROWN. No; if a new preference were established, under the limited permission which was granted in article I, they might want to create it by increasing the rate in the schedule, so that it would involve an increase in the tariff rate. That is the only reason for mentioning it here.

Senator MILLIKIN. Well, I mean, a preferential duty is a lower duty for the beneficiaries and it is a higher duty for those who are trying to get in.

Mr. BROWN. Yes, sir; but suppose the item were on the free list and you wanted to give it preferential treatment.

Senator MILLIKIN. Supposing it is not on the free list. What I have said is true; is it not?

Mr. BROWN. Yes; and then this would not come into play.

Senator MILLIKIN. That, then, would not come into play.

Mr. BROWN. No, sir.

Senator MILLIKIN. This relates only to items which are on the free list?

Mr. BROWN. No. This would apply only to the case where you wanted to create the preference by raising the most-favored-nation rate, which could be done either if the item were on the free list or if it were on a dutiable list.

Senator MILLIKIN. And you say it is limited by its terms to just a few situations?

Mr. BROWN. Yes, sir; the one specific situation contemplated in paragraph 3 of article I.

Senator MILLIKIN. Going on with the language [continues reading]:

new preferential agreement in accordance with the provisions of paragraph 3 of Article I, considers it desirable to adopt any non-discriminatory measure—

That phrase "non-discriminatory measure" runs through a number of the paragraphs. What is meant, in the context of this particular article, by a "non-discriminatory measure"?

Mr. BROWN. That is a nonpreferential tariff increase in this connection. In paragraph 5 it might be a nondiscriminatory quota.

Senator MILLIKIN. Is that the full concept of the phrase "non-discriminatory measure"?

Mr. BROWN. Yes, sir. It means a nonpreferential tariff.

Senator MILLIKIN. Almost any quota or tariff increase or other restriction would have a measure of discrimination in it, would it not?

Mr. BROWN. It would apply to all articles. It must apply to products from all countries. It could not apply simply to imports of products from a particular country.

Senator MILLIKIN. A layman's reading, or at least this layman's reading, of that paragraph, leaves considerable doubt as to how you are going to raise preferences and at the same time stay nondiscriminatory.

Mr. BROWN. No; the reference to the preference is a technical point which might be necessary if paragraph 3 of article I were invoked; and that is the only case in which preferential treatment would be contemplated by this article.

Senator MILLIKIN. Further testing the powers of the contracting parties, I notice, in 3 (b), that they have the right to set a time schedule for the negotiations.

Mr. BROWN. Yes, sir. That is to prevent somebody from improperly dragging his feet and declining to meet the merits of the situation.

Senator MILLIKIN. That is a very important power; is it not?

Mr. BROWN. It might be.

Senator MILLIKIN. I mean, if you have a time schedule on which you must get a pleading into court, it might go to the heart of your whole case if you did not get it in in time, because you might be defaulted out of court. All I am trying to suggest is that this is not some little minor procedural point; it might have great substantive import.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And that is the intention?

Mr. BROWN. It is the intention to have the negotiations proceed expeditiously.

Senator MILLIKIN. Now, toward the end of paragraph 3 (b), it says [reading]:

Upon substantial agreement being reached, the applicant contracting party may be released by the Contracting Parties from the obligation referred to in this paragraph—

What is the "obligation referred to in this paragraph"?

Mr. BROWN. The obligation from which they are seeking a release. That would be the rate specified in the schedule.

Senator MILLIKIN. Well, then, the "obligation referred to in this paragraph" is the whole obligation with respect to the particular rates that are involved. Is that right?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I did not see any obligation in that paragraph. That is what I am getting at.

Mr. BROWN. It is another way of saying if a contracting party wants to increase a tariff rate which it has bound under article II, that is to say, adopt a measure, i. e., the increase of the rate, which would conflict with an obligation under article II, that is the binding of the rate in the schedule. That is the obligation which is referred to.

Senator MILLIKIN. Now, 4 (a) says [reading]:

If as the result of action initiated under paragraph 3 there should be an increase in imports of any product concerned, including products which can be directly substituted therefor, which if continued would be so great as to jeopardize the establishment, development or reconstruction of the industry or branch of agriculture concerned, and if no preventive measures consistent with the provisions of 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, provided that such measures do not restrict imports more than necessary to offset the increase in imports referred to in this subparagraph; except in unusual circumstances, such measures shall not reduce imports below the level obtaining in the most recent representative period preceding the date on which the contracting party initiated action under paragraph 3.

Mr. BROWN. That is an elaboration of the idea that we already discussed under paragraph 2: that if word gets around that a barrier is going to be put up, and the imports start flooding in to get under the wire, you can limit them to mitigate the effect of that flood.

Senator MILLIKIN. But the purpose of the protection of the infant industry is to reduce the quantity of imports.

Mr. BROWN. Precisely. And that is what this would authorize, a limitation upon the quantity of the imports. But you see, if word

gets out that you are going to put up an increased tariff or are going to limit imports for the protection of a particular industry, people who are interested in sending in those imports will rush them in to get them in before the increase goes into effect. The purpose of this paragraph is to permit the party that wants to impose the protection to check that abnormal flood of imports and keep it down to normal levels.

Senator MILLIKIN. But the language, Mr. Brown, is [reading]:

that such measures do not restrict imports more than necessary to offset the increase in imports referred to in this subparagraph.

Mr. BROWN. That is right. In other words, they can take such measures as are necessary to maintain the status quo, pending the putting into effect of new protective measure.

Senator MILLIKIN. Then let me get it straight. Regardless of how we may differ on the interpretation of this particular 4 (a), this whole article does provide a method whereby you can decrease the imports in order to protect an infant industry. Is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now we come to (b). [Reading:]

The Contracting Parties shall determine, as soon as practicable, whether any such measure should be continued, discontinued or modified. It shall in any case be terminated as soon as the Contracting Parties determine that the negotiations are completed or discontinued.

Does that refer entirely to this temporary period that you are speaking of?

Mr. BROWN. That refers entirely to the protective action that we have just been discussing under paragraph 4.

Senator MILLIKIN. And it is intended to grant power merely to control that initial period where the market might be flooded with imports in anticipation of a measure of the type we have been discussing?

Mr. BROWN. That is exactly correct, sir.

Senator MILLIKIN. Coming to 4 (c) [reading]:

It is recognized that the relationships between contracting parties under Article II of this Agreement involve reciprocal advantages, and therefore any contracting party whose trade is materially affected by the action may suspend the application to the trade of the applicant contracting party of substantially equvalent obligations of concessions under this Agreement provided that the contracting party concerned has consulted the Contracting Parties before taking such action and the Contracting Parties do not disapprove.

Is that another way of saying that if you protect an infant industry, then the other contracting parties have the right to make compensatory adjustments?

Mr. BROWN. It is another way of saying that if you take action to protect an infant industry which has the effect of throwing out the balance of the bargain which you reached initially, then the other parties may take compensatory action. It is the same idea which is in the escape clause.

Senator MILLIKIN. And whether such compensatory action may be taken depends upon whether the contracting parties do not disapprove?

Mr. BROWN. The party desiring to take compensatory action may go ahead and do so. If that action is extreme and goes far beyond what is properly compensatory, contracting parties could disapprove that action.

Senator MILLIKIN. So that the contracting parties not only have the authority to determine whether X country can protect an infant industry, but they also have the authority to determine compensatory adjustments by other countries. Right?

Mr. BROWN. No, sir; not as stated.

Senator MILLIKIN. Will you state it correctly?

Mr. BROWN. The contracting parties have the right to say that the compensatory action taken by a given party to the agreement is so extreme, so extensive, as to be not really compensatory but to go far beyond that and to be disproportionate.

Senator MILLIKIN. Mr. Brown, where does it say anything about "extreme" in there?

Mr. BROWN. "Substantially equivalent" is the test.

Senator MILLIKIN. Yes. There is nothing in there that defines this test of extremity that you are speaking of.

Mr. BROWN. That is inherent in the words "substantially equivalent," Senator.

Senator MILLIKIN. I would like to have a demonstration of that.

Mr. BROWN. If you can only withdraw a substantially equivalent concession, then you can't withdraw one that is much more than equivalent.

Senator MILLIKIN. But in the last analysis the contracting parties determine it, and they approve it or disapprove it.

Mr. BROWN. They determine that; yes, sir.

Senator MILLIKIN. Is there any reason why you could not have a bilateral trade agreement and "police it," if you wish to use that phrase—and I think it has been stated properly—by setting up a particular set of persons to judge and decide on the problems that might arise?

Mr. BROWN. We have had cases under our bilateral agreements where we have had joint commissions to act as a sort of a moderating body, a body for consultation and action with respect to the administration of the agreement.

Senator MILLIKIN. It could be done that way, under precedents?

Mr. BROWN. We have already had those, yes, sir; in two cases.

Senator MILLIKIN. Paragraph 5 [reading]:

> In the case of any non-discriminatory measure affecting imports which would apply to any product in respect of which the contracting party has assumed an obligation under Article II of this Agreement and which would conflict with any other provision of this agreement, the provisions of subparagraph (b) of paragraph 3 shall apply; provided that before granting a release the Contracting Parties shall afford adequate opportunity for all contracting parties which they determine to be materially affected to express their views. The provisions of paragraph 4 shall also be applicable in this case.

Will you give us some illustrations, please?

Mr. BROWN. That is the case where a party making the application wants to use a quota rather than a tariff; and exactly the same procedure applies in the case that we have just finished discussing.

Senator MILLIKIN. Paragraph 6 [reading]:

> If a contracting party in the interest of its economic development or reconstruction considers it desirable to adopt any non-discriminatory measure affecting imports which would conflict with the provisions of this Agreement other than Article II, but which would not apply to any product in respect of which the contracting party has assumed an obligation under Article II, such contracting

party shall notify the Contracting Parties and shall transmit to the Contracting Parties a written statement of the considerations in support of the adoption, for a specified period, of the proposed measure.

Would you mind illustrating?

Mr. BROWN. This is a case where the application is for action with respect to a product which is not included in the schedules.

Senator MILLIKIN. Paragraph 7 (a) [reading]:

On application by such contracting party, the Contracting Parties shall concur in the proposed measure—

Now, does 7 (a) refer to the content of 6?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Paragraph 7 (a) [reading]:

On application by such contracting party, the Contracting Parties shall concur in the proposed measure and grant the necessary release for a specified period if, having particular regard to the applicant contracting party's need for economic development or reconstruction, it is established that the measure

(i) is designed to protect a particular industry established between 1 January 1939 and 24 March 1948, which was protected during that period of its development by abnormal conditions arising out of the war; or

(ii) is designed to promote the establishment or development of a particular industry for the processing of an indigenous primary commodity, when the external sales of such commodity have been materially reduced as a result of new or increased restrictions imposed abroad——

Mr. BROWN. That is the case of the illustration which I gave you, of the Mexican meat-processing industry.

Senator MILLIKIN. The contracting parties there have the power to determine the period of such restriction?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And they also have the power to determine the contracting party's need for economic development or reconstruction?

Mr. BROWN. They have to consider that.

Senator MILLIKIN. That is another illustration, I suggest, of where the contracting parties are not concerning themselves directly with tariff matters but are compelled to ransack the whole economy of a country in order to reach a decision. Do you agree, Mr. Brown?

Mr. BROWN. No, sir.

Senator MILLIKIN. How would they determine a contracting party's need for "economic development or reconstruction"?

Mr. BROWN. The party making the application would explain the reasons why it felt it necessary to get this release.

Senator MILLIKIN. They would not have to accept those reasons?

Mr. BROWN. If the conditions under paragraph 7 were met, they would have to; yes, sir.

Senator MILLIKIN. Sir?

Mr. BROWN. If the conditions specified in the subparagraphs were met, they would have to.

Senator MILLIKIN. Will you demonstrate, please?

Mr. BROWN. It says "If * * * it is established that the measure" meets these four tests, then they must grant the necessary release.

Senator MILLIKIN. But they must determine whether it is established; must they not?

Mr. BROWN. Oh, yes.

Senator MILLIKIN. And they are not limited to consideration of the application; are they?

Mr. BROWN. By "application" you mean the pleading? No.

Senator MILLIKIN. Their duty is to determine the contracting party's need for economic development. Is that not correct?

Mr. BROWN. They have to consider it; yes, sir.

Senator MILLIKIN. So they are entitled to make such inquiries and make such observations and to have the benefit of such studies as will enable them to meet their duty. Is that not correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What is the exact purpose of 7 (a) (i)? I mean, Why single that category out for special mention?

Mr. BROWN. In the war period in many cases you had a situation where a country was pretty well cut off from supplies which it normally got from the outside world, and it built up production in the country, and then when peacetime came and more normal conditions came back the flow of supplies from the other countries became available as they had been before the war, and the situation was one in which there was an industry which probably never would have been created if there hadn't been these abnormal conditions; and there may be great hardship unless something is done to help it.

Senator MILLIKIN. Do the contracting parties have the right to limit the time within which such an industry may be continued?

Mr. BROWN. Yes, sir; within which the protective measure contemplated by this article may be continued.

Senator MILLIKIN. That is what I am speaking of.

Now we come to 7 (a) (ii) [reading]:

> is designed to promote the establishment or development of a particular industry for the processing of an indigenous primary commodity, when the external sales of such commodity have been materially reduced as a result of new or increased restrictions imposed abroad.

Will you give us the precise things that were in mind in connection with that paragraph?

Mr. BROWN. That paragraph would apply in the case of the illustration I gave you a little while ago, of the meat-processing industry in Mexico.

Senator MILLIKIN (reading):

> (iii) is necessary in view of the possibilities and resources of the applicant contracting party to promote the establishment or development of a particular industry for the processing of an indigenous primary commodity, or for the processing of a by-product of such industry, which would otherwise be wasted, in order to achieve a fuller and more economic use of the applicant contracting party's natural resources and manpower and, in the long run, to raise the standard of living within the territory of the applicant contracting party, and is unlikely to have a harmful effect, in the long run, on international trade.

Let me ask you: Is anything else in mind except to cover that Mexican situation?

Mr. BROWN. That is the only one that we know of. But the principle, if there were another case where the same general facts were involved, would apply.

Senator MILLIKIN. It is intended to cover cases of that kind and no other kind of a case?

Mr. BROWN. That is correct.

Senator MCGRATH. Senator, might I ask the witness at this point to elaborate the Mexican meat situation a little?

I do not think I quite understand it. I understand the embargo. But what kind of relief was there?

Mr. BROWN. This would permit the Mexicans to limit imports of processed meat, so as to maintain the meat-processing industry which they have established.

Senator MCGRATH. They would be permitted to put restrictions on processed meat coming in from the United States?

Mr. BROWN. Yes, sir.

Senator MCGRATH. That does not open the door to processed meat coming into the United States.

Mr. BROWN. No; this would have nothing to do with exports from Mexico to this country.

Senator MCGRATH. In other words, it is aimed at giving to them their own processed-meat market, in view of the fact that we have eliminated whole animals from importation into the United States.

Mr. BROWN. That is right, sir. Otherwise those animals would go to waste.

Senator MILLIKIN. They might want to eat a type of animal when processed which we might not want to eat.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Why do you limit, in that provision, its application to primary commodities and by-products of primary commodities?

Mr. BROWN. The purpose of this article generally is to limit the use of this escape from the other provisions of the agreement. There are cases, however, in many of the more primitive areas where one of the natural things for them to do in beginning to develop their economy is to take the raw materials which they produce and do the processing or the early stages of the processing there. Presumably, that might be very ineffectively done for quite a period. That is the kind of thing which would be a normal and promising step toward the development of the country, and it was felt that it would be legitimate to permit special protective measures in that kind of case.

Senator MILLIKIN. Well, is this intended to give protection to infant industry only in the case of an indigenous primary commodity or a by-product thereof?

Mr. BROWN. Which would otherwise be wasted; yes. That is the only purpose of this (iii). This paragraph is the one which sets forth the conditions under which, if the case is made, the contracting parties would have to give their concurrence. Therefore, it is a limited paragraph.

Senator MILLIKIN. That brings me to the exact development of the theme that I would like to see made. Is there any limitation, any place in this article or in this agreement, on protection of any kind to infant industry dealing with commodities other than those which are primary or the byproducts thereof?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What is it, please?

Mr. BROWN. They only are allowed to do it if they meet these tests.

Senator MILLIKIN. Yes. But I am talking about the subject matter of the test. You are referring here to primary commodities or the byproducts thereof. Is this particular type of protection limited to the primary commodities or the byproducts thereof? If not, what is included elsewhere in this general agreement?

Mr. BROWN. Subparagraph (a) (iii) is limited to primary commodities and byproducts thereof.

Senator MILLIKIN. I will agree with you, Mr. Brown.

Mr. BROWN. The purpose of this paragraph is to say that if certain limited criteria are met, then approval of a quantitative restriction must follow.

Senator MILLIKIN. I understand that. I have not made my question clear.

Mr. BROWN. I am sorry, sir.

Senator MILLIKIN. I am trying to find out whether this privilege, let us call it, for the protection of infant industry, which is obviously limited in (iii) which we are discussing, is otherwise limited in this general agreement.

Mr. BROWN. The general agreement limits the use of quantitative restrictions for protective purposes, generally. That is in article XI, which we have previously discussed. Now, this article permits exceptions to that limitation under certain conditions, where the development of an industry or economy is involved. This is an exception to the rule against the use of quantitative restrictions.

Senator MILLIKIN. Now, then, Is it correct to say that these special provisions for the protection of infant industry are limited to indigenous primary commodities and their byproducts?

Mr. BROWN. No, sir. The special provision of subparagraph (a) (iii) is, subparagraph 7 (a) (i) is not, subparagraph 7 (a) (iv) is not, and paragraph 8 is not.

Senator MILLIKIN. And what is contemplated by those paragraphs? What additional subject matters may be given this special protection?

Mr. BROWN. As I said, in discussing subparagraph (i), any kind of industry which comes within that condition of arising during a war, when the normal imports were not present and where the development of normal imports, as peace came back, would work a great hardship, would be included. Any kind of an industry.

Senator MILLIKIN. Except for those that are mentioned in (i), except for those mentioned in (ii), except for those mentioned in (iii), infant industry does not get the benefit of these special protections?

Mr. BROWN. Let us put it the other way around, Senator. An application can be made under this section of the article for any infant industry of any kind in any country which is a party to this agreement, and consultation may be had and a release may be obtained if the contracting parties agree. Now, if an application is made with respect to the protection of an industry for the development of an indigenous primary commodity which meets this subparagraph (iii), then the release must be given. It is automatic, so to speak. In other cases, there is a judgment of the contracting parties as to whether it should or should not be given.

Senator MILLIKIN. Is there not a judgment in both cases?

Mr. BROWN. Yes.

Senator MILLIKIN. I mean, in each case the showing has to be judged.

Mr. BROWN. That is correct. But there is a considerable difference in the judgment, I think. In one case the prescribed criteria are established. You have a prima facie case just on your pleading.

Senator MILLIKIN. So this 7 (a) was set out to give, let us say, special favor to those infant industries that come within its terms. Is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now, let me invite your attention to the last part of 7 (a) (iii). The words to which I invite your attention are [reading]:

and is unlikely to have a harmful effect, in the long run, on international trade.

Can you explain that, please?

Mr. BROWN. Only by repeating it, Senator.

Senator MILLIKIN. Well, the point in my mind is: If you develop an infant industry into a thriving industry, and you continue to protect it, are you not in the long run having a harmful effect on international trade, under your own theories of the matter?

Mr. BROWN. Not necessarily.

Senator MILLIKIN. Well, then, what is contemplated? What are the tests?

Senator MARTIN. Mr. Chairman, might I suggest that if we knew how that sentence has been interpreted it might give us the answer.

Mr. BROWN. It has not been interpreted, Senator.

Senator MILLIKIN. All I am trying to get at, Mr. Brown, is: What are the standards which will be determined as to how this infant industry, when it grows up and thrives, as it might, will operate so far as international trade is concerned?

Mr. BROWN. You couldn't prescribe a general standard. That would have to be considered in terms of the particular instance.

Senator MILLIKIN. Would you say, then, that if this infant industry grew to a certain point, under the special privileges given it here, where it monopolized domestically a market which previously had been supplied by other contracting parties, it would have a harmful effect on international trade?

Mr. BROWN. It might very well; yes. Suppose you embargoed the imports, and the industry took up the whole market; that, I should think, would have a harmful effect on international trade. But if it is a thriving industry, as was suggested, then presumably it would be able to meet competition, and it would not need the protection.

Senator MILLIKIN. Well, let us assume that it grows out of the infant stage, becomes mature, is a successful industry, and occupies a substantial part of the trade formerly supplied by other contracting parties. Would that be harmful to international trade, under that test?

Mr. BROWN. Not necessarily; in fact, probably not. Because the effect of it in the community would be to develop the whole community and its purchasing power for many other articles and to make for general economic health in the area. That would be a very desirable thing.

Senator MILLIKIN. And the contracting parties would judge that situation also?

Mr. BROWN. They would take that into consideration.

Senator MILLIKIN. Give us some more examples of the type of judgment that would be involved insofar as that proviso is concerned.

Mr. BROWN. I have nothing to add to that, sir.

Senator MILLIKIN. I suggest to you, Mr. Brown, that under your whole theory, basic to this agreement, if that infant industry grew to a point where it occupied all or a substantial part of the market

formerly supplied by other countries, it would have a harmful effect on international trade.

Mr. BROWN. I wouldn't agree with that at all, Senator.

Senator MILLIKIN. I would like to have the standards for judgment on it. That is all I am driving at.

Mr. BROWN. When a country develops and its industry grows, that has the effect, in many cases, of limiting particular exports to the country. The country develops its productive capactiy and supplies a great amount, perhaps all, of its domestic demand for that product; but it is a generally recognized fact that the highly industrialized areas of the world provide the best markets for the products of other countries in the world, and, although in some cases the immediate competitive effect may be harmful as to one exporter to that country, in the long run the effect of it is that the exporters of the world generally will benefit from a more highly developed market.

Senator MILLIKIN. But, Mr. Brown, it does not say that the contracting parties shall follow the test which you have just laid down. And I may suggest also that you are making a fine high-protection argument.

Mr. BROWN. That was not my intention.

Senator MARTIN. I would like for you to go just a little further. We have an industry in America, for example, that because of high development has not had the need of protection, but competition from other countries, by reason of discovery of raw materials, has made it difficult for that industry in this country to survive. Then what is the attitude?

Mr. BROWN. That would not come under this particular article we are discussing, Senator Martin.

Senator MCGRATH. Mr. Brown, for my personal enlightenment: Would you give us an example of an infant industry? There has been a good deal said here about an industry growing from a small-sized industry to one of monopolistic size. When does an industry pass from infancy to full-grown manhood, if size is not a factor in determining that?

Mr. BROWN. I could not say, Mr. Chairman. Let me go back to what the purpose of this article is. The purpose of this article is to permit a deviation from the general rule against the use of quotas for protective purposes, in cases where you have genuine opportunity to develop an indigenous industry on a sound basis, and to have some kind of a group judgment as to whether that is a really sound and promising case, to prevent the birth of all kinds of misfits, and to prevent the kind of case that sometimes comes up, of some very primitive country suddenly deciding that they want to put in an automobile-assembly industry or a shipbuilding industry, or something which they do not have any possible basis of sustaining. They will do that. This is to select the case where there is a real chance of developing a sound and economic industry, and where they need some special help to do it, at the beginning, for a period. That is all this endeavors to do. It is quite impossible to write down or to express the tests and factors which would apply in the myriad different circumstances that might conceivably arise.

Senator MCGRATH. In other words, an infant industry may remain in that status over a long period of years, depending upon the rapidity with which it is developed in a particular country?

Mr. BROWN. That is correct; sir.

Senator MARTIN. Mr. Chairman, Mr. Brown has stated, in answer to a question, that an industry may grow, will stay in a community, and then becomes a part of the economy of that community, and I understood from his answer that it may be necessary to continue to protect it, even if it becomes rather large, because of its part in the economy of the community.

Was that what you meant to convey, Mr. Brown?

Mr. BROWN. No, sir. I would like to point out, however, that tariff protection could be continued for such an industry under this section, under any level that the country chose to impose.

Senator MARTIN. Well, for example, the United States 50 years ago, as I think history records, imported practically all of its tinplate from Great Britain. Now I presume we make all the tinplate the whole world requires. And yet there are some of those industries which have become such an important part of the communities, even of large communities, that there might be a time when they would require protection. Is that your theory? I am not arguing with you; I think the committee ought to know just what your theory is, however.

Mr. BROWN. I would say, Senator Martin, that this paragraph does not contemplate any action with respect to the situation of a highly developed and long-established industry, even though there might be for some reason some need to do something to help it. That would not be under this particular portion of the agreement we are dealing with.

Senator MARTIN. Personally, I would like to make this observation, Mr. Chairman: I think it was always the intention to take care of the infant industry; and then, when it gets on its feet, it is hardly fair to continue such care, unless it is necessary for the security of the country.

Mr. BROWN. That is very close to the philosophy of this particular article, Senator Martin.

Senator MARTIN. But I do think that we have some fine industries which, in my understanding, it has always been the policy to protect. For example, we need sugar and oil and tungsten and certain items such as that for the security of the Nation. As I understand it, it has always been the policy to protect industries of that character. Is that true?

Mr. BROWN. Yes. We have tariff protection for oil and tungsten and wool and, I think, all of the items that you mentioned.

Senator MARTIN. Take, for example, wool. It has received protection for many, many years and probably will never become an industry that will stand on its own feet.

Senator MCGRATH. But there is no intention of using this article as a matter of protection for industries such as you have spoken of; and Mr. Brown tells us that would all be done by tariff.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Taking a look at paragraph 7 (a) (iv), anothe matter for consideration in the granting of this particular protectio is that it [reading]:

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 is the one most suitable for the purpose

having regard to the economies of the industry or branch of agriculture concerned and to the applicant contracting party's need for economic development or reconstruction.

Would you mind giving us the benefit of your ovservations on that, Mr. Brown?

Mr. BROWN. The argument was made, frequently, by a number of the parties to this agreement, that there were cases in which the use of a quota would be actually less restrictive of trade than some other device, such as the tariff. This paragraph gives them the opportunity to prove it. I can't think of a specific case in which that would be true. It is my feeling that, generally speaking, a quota is more restrictive than a tariff. But this would permit an opportunity, if someone could show the contrary, for the use of a quota rather than an increase in the tariff.

Senator MILLIKIN. Do the provisions of the paragraph numbered 7 contemplate exclusively the subject of quotas?

Mr. BROWN. Yes, sir.

Senator MCGRATH. The watch situation we talked about a week ago might be an example of that, might it not? As to the imposition of quotas in addition to the tariff?

Mr. BROWN. I think it would be difficult to bring that situation within this paragraph.

Senator MCGRATH. Because it is not a so-called infant industry?

Mr. BROWN. No, sir. I think that is really a case where, if you were to impose a quota, we would just have to negotiate it out with the Swiss. We have a separate agreement with them.

Senator MCGRATH. You have an existing agreement?

Mr. BROWN. Yes, sir. I think that the situation involved in the Swiss case would be the kind of situation to which the escape clause, which we will discuss later on, would apply, rather than this article. Because that escape clause says that when you have injurious effects from imports, then you may take remedial action.

Senator MCGRATH. You are speaking of the escape clause in this agreement?

Mr. BROWN. Yes, sir.

Senator MCGRATH. And will this agreement supersede the Swiss agreement?

Mr. BROWN. Switzerland is not in this agreement. We just have our separate 1936 agreement with Switzerland.

Senator MILLIKIN. Here again, in this 7 (a) (iv), the contracting parties, as such, would determine whether something other than quotas would be a better way to do it. And in doing that, they would have to consider the difficulties involved and the suitability of the purpose and would have to have regard to the economies of the industry of the particular branch of agriculture, and they would have to determine the contracting party's need for economic development or reconstruction?

Mr. BROWN. They would have to take those things into account.

Senator MILLIKIN. Going on, it says [reading]:

The foregoing provisions of this subparagraph are subject to the following conditions:

(1) Any proposal by the applicant contracting party to apply any such measure, with or without modification, after the end of the initial period, shall not be subject to the provisions of this paragraph—

What does that mean?

Mr. BROWN. The provisions of this paragraph 7 specify the cases in which, if the applicant meets the test specified in the paragraph the approval and release follows necessarily. That initial consent and release must be for a specified period. If the contracting party making the application wanted to extend that period or do something in a limiting way after the espiration of that period, he would not come under paragraph 7. He would have to come under paragraph 8.

Senator MILLIKIN. Are all of the privileges of this paragraph 7 limited to a predetermined period of time?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. In other words, the contracting parties considering an application could say, "We will allow the imposition of this or that certain quota in response to your problem for," let us say, "a period of 5 years."?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Or any other period of time?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. They will judge the period of time?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Continuing with subparagraph (2) [reading]:

The Contracting Parties shall not concur in any measure under the provisions of (i), (ii), or (iii) above, which is likely to cause serious prejudice to exports of a primary commodity on which the economy of the territory of another contracting party is largely dependent.

Let us take the case of oil. If the economy of Saudi Arabia were badly injured by a quota in this country in order to build up, let us say, synthetic fuels from coal, we could not give protection to synthetic fuels?

Mr. BROWN. I think our synthetic fuels would undoubtedly come under the defense exception.

Senator MILLIKIN. It might, or it might not. Assuming we chose not to cast it in the role of a defense measure, or assuming that we chose to cast it on a mixed basis, if the protection of that synthetic-fuel industry seriously injured, let us say, Saudi Arabia, would we be denied the right to set up a quota, for example, for the protection of that new industry?

Mr. BROWN. I think it is doubtful whether you could do it under paragraph 7. You might be able to get agreement to do it under paragraph 8.

Senator MILLIKIN. Under paragraph 7, you would say that the opportunity to do that would probably be denied?

Mr. BROWN. I think so, Senator. I would like to say that you have, during the course of these days, given me a great many specific cases of specific things, and I am not fully prepared on every one of them. I have done my best to answer all the questions. I would just like to qualify my answer by saying "I think" it would not apply.

Senator MILLIKIN. I assume your answer to be the same as to any specialized crop. We import fiber crops. If we were to develop our own substitute, and if that seriously injured any of the foreign contracting parties that grow those fiber crops, we could not put on a quota?

Mr. BROWN. I would make two points, Senator. In the first place, this applies only to subparagraphs (i), (ii), and (iii).

Senator MILLIKIN. Yes.

Mr. BROWN. It does not apply to subparagraph (iv).

Senator MILLIKIN. I understand that.

Mr. BROWN. Subparagraph (iv) is one under which an argument might well be made on the synthetic fuel case which you have just raised.

Senator MILLIKIN. I was assuming that these fiber crops are indigenous primary commodities.

Mr. BROWN. I would say that generally speaking the purpose of this is to prevent some one, in the guise of economic development, from throwing another country completely out of business.

Senator MILLIKIN. Yes.

Mr. BROWN. That is the purpose of this.

Senator MILLIKIN. Well, let us assume that we were the sole market as far as an important crop is concerned, produced by one of the contracting parties. And let us assume that we developed a substitute or the same thing here in this country, and that it did put the other country completely out of business so far as that crop was concerned. Would that be permitted or prohibited?

Mr. BROWN. It depends on how you develop it. I think, for example, we have developed in this country synthetic nitrates which have had a very serious effect on the nitrate exports of Chile; but there is nothing in this agreement that would prevent us from doing that.

Senator MILLIKIN. We could put a quota on nitrates?

Mr. BROWN. No, sir; we could not put a quota on nitrates. We have developed the nitrate industry through the use of subsidies plus our ingenuity and skill and ability, and I think, if my memory serves me correctly, the industry is now competing and producing a product which is in many ways better than the natural product, at a less cost. That is bound to have an adverse effect on the other country's exports, but there would be nothing to prevent that.

Senator MILLIKIN. Let us say today we were going to develop our own nitrates. Could we put on a quota under this paragraph that we are discussing, if it had the effect of seriously injuring another contracting party?

Mr. BROWN. I think we would have to make a very strong case before we did so.

Senator MILLIKIN. But if we made a strong case, and if nevertheless a case were made that we would be causing serious injury so far as that commodity is concerned to another contracting party, the economy of which is largely dependent on that commodity, we would be prohibited by this paragraph, would we not?

Mr. BROWN. This paragraph, Senator, applies only to the so-called automatic approval under subparagraphs (i), (ii), (iii) of paragraph 7 (a).

Senator MILLIKIN. I understand.

Mr. BROWN. It does not apply to any of the other paragraphs, either subparagraph (iv) of 7 (a) or paragraph 8. And what this says is that the contracting parties will not give a release automatically on a prima facie case if there is evidence of a serious situation to an exporting country such as is provided for under this subparagraph (2). But it does not apply to the other parts of the article.

Senator MILLIKIN. I understand that, and I was merely exploring to find out whether, as to what is contemplated by this particular

paragraph, there is any exception to what, to my mind, is the stringency of this particular paragraph.

Mr. BROWN. The two examples which you have given would probably not come under those three subparagraphs anyhow.

Senator MILLIKIN. Why not?

Mr. BROWN. Because they don't meet the tests.

Senator MILLIKIN. They do not in what way?

Mr. BROWN. The synthetic fuel case does not meet any one of the three tests, (1), (2), and (3).

But in any event, Senator——

Senator MILLIKIN. I do not know that this is a matter of "in any event." It is very important. Coal is an important indigenous commodity.

Mr. BROWN. Yes.

Senator MILLIKIN. And we are making liquid fuel out of coal.

Mr. BROWN. Yes.

Senator MILLIKIN. So is that not contemplated by (ii)?

Mr. BROWN. No, sir.

Senator MILLIKIN. No? Why not?

Mr. BROWN. Because it would not otherwise be wasted. We are using it.

Senator MILLIKIN. Well, of course, it would be wasted. Oh, Mr. Brown, we have hundreds of millions, billions, of tons of coal that are not being used, and might be the subject of synthetic-fuel processes.

Mr. BROWN. Well, Senator, if you will look at subparagraph (iii), you will also see that it is unlikely to have a harmful effect on international trade.

Senator MILLIKIN. Well, I suggest to you that if we commence to protect the development of that industry and in order to develop it we exclude imports which have been coming in here, it probably would have a harmful effect.

Mr. BROWN. That is just what I was saying, Senator.

Senator MILLIKIN. So that under your own argument I suggest that synthetic fuel does come under these provisions.

Mr. BROWN. No, sir; because this provision requires that it does not have a harmful effect on international trade; and we have just agreed that it would.

Senator MILLIKIN. Well, then, your theory is that synthetic fuel is excluded from the protection here, because it would have a harmful effect on trade; is that right?

Mr. BROWN. I do not think——

Senator MILLIKIN. Well, let us land one way or the other, Mr. Brown.

Mr. BROWN. I started off by saying that I do not think it would come under subparagraphs (i), (ii), and (iii) of paragraph 7 (a).

Senator MILLIKIN. You mean that the privilege would be denied?

Mr. BROWN. The privilege would not be granted under those three subparagraphs.

Senator MILLIKIN. Yes.

Mr. BROWN. But then, as I have pointed out, there are others.

Senator MILLIKIN. And your reason for excluding synthetic fuel from those three paragraphs is what?

Mr. BROWN. Because it does not meet the tests of those paragraphs. At least, I think it would be unlikely to. I have not analyzed the situation or gone into it.

Senator MILLIKIN. Well, take any other. Take a crop. We, for example, are becoming great developers of soybeans. Supposing that we were starting originally to develop a soybean business here. I can see where that might have very important and serious repercussions on the soybean producers abroad. Would that come under this?

Mr. BROWN. I do not know whether it would or would not, Senator.

Senator MILLIKIN. If it would have a harmful effect on international trade, it would not?

Mr. BROWN. I would confine my answer to what I gave you before: That the limitation of subparagraph (ii) in paragraph 7 (a), is limited to the narrow cases of subparagraphs (i), (ii), and (iii) of 7 (a), and if we desired to make applications of the kind that we have been discussing, if I were advising the applicant I would not advise that they be made under those subparagraphs; I would advise that they be made under some other part of this same article.

Senator MILLIKIN. Let us assume that the synthetic-fuel people and the producers of any new crop decided to speculate on whether the contracting parties would determine that their new business would be harmful to international trade. They could make their application under the paragraph we have been discussing; could they not?

Mr. BROWN. Which one is that, Senator? Is that 7 (a) (iii)?

Senator MILLIKIN. Paragraph 7.

Mr. BROWN. Oh, yes; they could, as I pointed out.

Senator MILLIKIN. But they might run afoul of a decision of the contracting parties that they were seriously injuring some foreign contracting party; right?

Mr. BROWN. If they made their application under one of the first three subparagraphs of paragraph 7 (a), they might.

Senator MILLIKIN. They would be subjected to all of those tests?

Mr. BROWN. If they made it under (iv), they would not.

Senator MILLIKIN. I am sorry to have to ask you to explain why they would not under (iv).

Mr. BROWN. Because the condition set forth in (2) is that the contracting parties shall not concur in any measure under the provisions of (i), (ii), or (iii). It does not refer to (iv).

Senator MILLIKIN. Well, in what way would they be hampered by (iv) from applying for this particular grace?

Mr. BROWN. They would not be hampered at all in their application.

Senator MILLIKIN. But the contracting parties would determine whether they met the conditions prescribed in (iv); would they not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now let us proceed with (2) (b).

Mr. BROWN. I think that is 7 (b).

Senator MILLIKIN. Well, we have (a) with (i), (ii), (iii), and (iv), and then we come to some parenthetical arabic numbers, (1) and (2), and now I am talking about (2) (b).

Mr. BROWN. (1) and (2) apply to 7 (a); then (b) is 7 (b).

Senator MILLIKIN. There should be a "7" in front of that "(b)"?

Mr. BROWN. Yes, sir; it is not well paragraphed.

Senator MILLIKIN. Subparagraph (b) reads:

> The applicant contracting party shall apply any measure permitted under subparagraph (a) in such a way as to avoid unnecessary damage to the commercial or economic interests of any other contracting party.

Now, bring that into relation to what we are talking about.

Mr. BROWN. That is the same theme that we have had so often before; and that is that when you have a measure which is permitted under the agreement, and there is a choice of its application in a way which will cause a lot of damage and harm and in a way which would cause less, you should follow the latter course. And that comes with this theme: That naturally when you do something that is permitted and which you must do you will try to avoid its harsh effects on somebody else.

Senator MILLIKIN. The unavoidable effect is not proscribed; but if you go beyond this and do arbitary and unnecessary things that injure, such action is proscribed.

Mr. BROWN. That is correct.

Senator MCGRATH. We will recess until 10 o'clock in the morning.

(Whereupon, at 12 noon, the committee recessed to reconvene at 10 a. m. Wednesday, March 2, 1949.)

EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT

WEDNESDAY, MARCH 2, 1949

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to adjournment, in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senators George (chairman), McGrath, Millikin, Taft, and Martin.

The CHAIRMAN. The committee will come to order.

The reporter will place this letter from Assistant Secretary Thorp and a report from the Department of Agriculture in the record at this point.

(The letters referred to are as follows:)

DEPARTMENT OF STATE,
Washington, February 24, 1949.

The Honorable WALTER F. GEORGE,
Chairman, Committee on Finance, United States Senate.

MY DEAR SENATOR GEORGE: During my testimony before the Senate Committee on Finance on February 17, Senator Millikin asked me to consult the President on the question whether the minutes of the Interdepartmental Committee on Trade Agreements should be made available to the Congress.

I have done so, and the President is in agreement that it would not be in the public interest to make the minutes available, for the reasons indicated in the letter which Mr. Clayton sent to Senator Millikin last year in response to the same request. This letter, dated May 5, 1948, was printed in the records of last year's hearings before the Finance Committee on trade-agreement legislation.

Sincerely yours,

WILLARD L. THORP,
Assistant Secretary.

MARCH 1, 1949.

Hon. WALTER F. GEORGE,
Chairman, Committee on Finance, United States Senate.

DEAR SENATOR GEORGE: I understand that hearings were begun on February 17 before your committee on H. R. 1211, a bill to extend the authority of the President (to negotiate foreign-trade agreements) under section 350 of the Tariff Act of 1930, as amended. This Department favors the passage of H. R. 1211.

On the occasion of the consideration by the Congress last year of the renewal of the Reciprocal Trade Agreements Act I advocated the extension of authority provided in the bill under reference. The Trade Agreements Act granting that authority had been in effect without significant alteration for 14 years. I stated the basic interest of agriculture in the reciprocal trade agreements program. That program is the necessary foreign counterpart of a long-term domestic agricultural program.

The farmers of this country normally produce many commodities in greater quantities than are required for use in the United States. Any acceptable United States farm program, therefore, must be associated with a program for keeping open the channels of international trade in a manner that will permit United States

agriculture products to compete abroad. The American farmer must not have his products excluded from foreign markets by excessive tariffs and other barriers or discriminated against through preferences and other special deals between foreign governments.

Agriculture is interested in the trade agreements program not only in connection with agricultural exports but also in connection with industrial exports. Agriculture needs a wide and dependable market in the United States for American farm products. Sales abroad of products of the American factory result in greater employment and consequently greater domestic demand for products of the American farm. This is particularly true of products which are consumed increasingly as incomes rise, such as dairy and poultry products, meats, fruits, nuts, and vegetables. But a high level of American industrial exports can be maintained only in a climate of world prosperity, a climate which can prevail only when there is extensive interchange of goods and services between countries. The trade agreements program is designed to facilitate such an interchange.

In order that foreign countries may pay for our farm and factory products, they must obtain dollars. For the time being, of course, conditions resulting from the war have made it necessary to supply many of our exports as gifts or on credit. However, this cannot be continued indefinitely. The most important continuing source of dollars for our foreign customers is their sale of goods to us, that is, our imports. Under the reciprocal trade agreements program, we have developed a mechanism whereby we can reduce the barriers against imports into the United States in such a way as to increase those imports without causing injury to established United States industry.

The imports thus obtained tend to raise our living standards. The large block of our population represented by farm people is an important group of consumers. They know that the benefits of trade do not lie merely in getting rid of a maximum amount of goods. They want to get as much as possible in return. The trade agreements program is designed to facilitate that.

As a long-term program, the trade agreements program can be of aid in the immediate problem of European recovery. Under the Foreign Assistance Act of 1948, the United States has launched on a program of direct aid so that the other participating countries may carry their recovery to the point where they are enabled to join us as partners in a going international economy. The reduction of trade barriers now can help assure progress toward such an economy.

Despite the difficult circumstances of international relations which prevailed between the original adoption of the Trade Agreements Act in 1934 and the beginning of the war, experience under the program in that period showed a consistent advantage to the American farmer. Our farm exports to countries with which we had trade agreements increased more than exports to other countries. Moreover, the exports of items on which tariff reductions had been obtained increased more than exports of other products. There was also an increase in imports. The agricultural commodities involved in the increase in imports were those needed either because they are not produced in the United States or are not produced here in sufficient quantity for United States needs. The importation of items directly in competition with American agricultural products increased relatively little.

On the basis of experience under the program, there has been worked out a method of dealing with cases of unforeseen injury or threat of injury to domestic industry. This is the escape clause, which enables us in any case where producers sustain or are threatened with injury due to operation of the agreement to suspend or withdraw the concession made. This clause will be included in all reciprocal trade agreements to which the United States becomes a party.

The previous Congress changed the Reciprocal Trade Agreements Act in a way that makes it more difficult to operate. These changes do not improve the procedures under the act either from the point of view of accomplishing its objectives or of preventing injury to United States producers. I should like to support H. R. 1211, which would restore the legislation substantially to its previous form.

Sincerely yours,

CHARLES F. BRANNAN, *Secretary.*

The CHAIRMAN. Senator McGrath, I will thank you to take over again. I suppose you will have to recess again at 12 o'clock until the following morning. I am sorry that I cannot remain with you, but I have got to attend the meeting of the other committee this morning.

Senator MCGRATH (presiding). Very well, Senator.

Senator Millikin?

Senator MILLIKIN. Mr. Brown, you have supplied the committee in confidence with a copy of a letter from the Managing Director of the International Monetary Fund in reply to the letter from the chairman of the contracting parties, bearing date of October 4, 1948, and a copy of a letter bearing date of September 14, 1948. from the chairman of the contracting parties to the Managing Director of the International Monetary Fund, regarding relations of the contracting parties with the International Monetary Fund.

I notice that both of these papers are marked "restricted, limited B." In view of that marking, may we feel at liberty to put those communications into the record?

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE, WASHINGTON, D. C.—Resumed

Mr. BROWN. I am afraid not, Senator. I don't know why they were marked "restricted," and we are endeavoring to get them declassified so that they can be made public.

Senator MILLIKIN. Will you be good enough to pursue that diligently?

Mr. BROWN. We will.

Senator MILLIKIN. In glancing over the copies of those letters, I personally can see nothing of a restricted or limited nature.

Mr. BROWN. I quite agree, Senator; and I think it is just that they had a general classification for all of their business documents, and this got included in it.

Senator MILLIKIN. Mr. Chairman, yesterday I submitted to the examination of Mr. Brown, a document entitled "International State Trading," which purports to give a summary of extracts from Foreign Service reports of the State Department on that subject matter. Mr. Brown pointed out the unrelated nature of some of the excerpts, but in looking the paper over I believe it does give some good information with respect to what we have been talking about, and also more generally, and I ask permission to have it included as part of the record.

Senator McGRATH. Without objection.

(The document referred to is as follows:)

INTERNATIONAL STATE TRADING

SUMMARY OF EXTRACTS FROM FOREIGN SERVICE REPORTS OF THE STATE DEPARTMENT

Turkey

Under the terms of the principle of étatism, the Turkish state has become the largest industrialist in the country, for the simple reason that no individuals or corporations have had sufficient borrowing power or capital to initiate the large-scale industrial projects which have been undertaken. The State operates the railways, posts and telegraphs, coastwise shipping, tram lines, and the gas, electric, and telephone services in the chief cities. State monopolies control the manufacture and sale of practically all alcohol and alcoholic beverages; tobacco products; salt; matches; and explosives. State-controlled or state-operated enterprises are engaged in mining, sugar refining, the manufacture of textiles and leather goods, the operation of cotton, woolen, and paper mills, and the production of iron and steel. Acting under the principle, often publicly stated, that the Government must for the benefit of the people and of the nation

undertake those operations which private capital is either unable or unwilling to do, the state has gradually become the major exploiter of the natural resources of Turkey. As a corollary of this situation, the state participates in international commerce, both as a trader and by exercising trade controls.

Although the Turkish economy is at present a mixed economy, based partly on Government and partly on private enterprise, there is noticeable a concerted effort to concentrate economic control, if not actual ownership, in the hands of the Government. Government economists, while maintaining that the Government is withdrawing from international trade, admit that étatism does not permit the Government to relinquish the basic controls which enable it to influence international trade. They also state that, for the good of the nation, it will be necessary for the Government to continue to exploid the national resources of the country. Under these circumstances, continued state participation in international trade is a virtual certainty.

Argentina

State trading in Argentina is handled by the Argentine Trade Promotion Institute. This organization was apparently conceived and is utilized by the present Government to further the Government's broad economic policies. In pursuit of these ends, the institute is now engaged in the export trade of many important Argentine commodities to obtain revenue to help finance Government projects; it is controlling a small number of Argentine imports to husband foreign exchange and protect local industry (in order that materials may be purchased and produced on the scale necessary to realize these plans); and it is acting as the Government purchasing agent in an effort to get the best terms possible for the Government in its foreign purchases. The export functions of the institute seem destined to go on only so long as Argentine commodities command an abnormally high price in world markets. Import functions will probably be expanded and will continue as long as it is necessary to make heavy Government purchases abroad, but may well continue beyond that point in modified form to protect infant Argentine industries. The Government purchasing functions of the institute will probably last as long as Government purchases are being made abroad in large enough quantity to make those functions seem worth while.

Denmark

Denmark has at present valid bilateral trade agreements with 15 countries and the French zone of Germany. Generally speaking, these agreements call for the shipment of definite amounts of Danish merchandise in return for definite amounts of foreign goods or exchange.

Inasmuch as Denmark has thus agreed to ship the bulk of its available exports to certain countries, it is obvious that, in order to implement the trade agreements, the state must direct the flow of exports so that it will reach the designated countries in the proper amounts.

This flow is nominally directed by the Government's issuance of export licenses. However, for the major export items (agricultural), the state has utilized the extensive cooperative marketing organizations to supervise the distribution of supplies between the domestic market and the various foreign markets.

The Danish export distribution system is built around a series of commodity committees established by the producing and marketing interests to work closely with the Ministry of Agriculture and other Government agencies. Most of the commodity committees were established during the depression years 1932–36. In that period, the chief function of the committees was to promote as much as possible the sales abroad of a burdensome export surplus and to administer production control schemes. In recent years and particularly since the end of the war, the chief function has been to distribute among foreign buyers the relatively small volume of exportable products remaining after domestic requirements have been provided for.

The work of the committees includes distribution of the available export opportunities between the various export organizations of the industry. Actual sales of any significant size, however, are made in the name of the committee, which in most cases, is the body with which foreign buyers enter into contracts and to which export licenses are granted. It is anticipated that this procedure will continue as long as Danish export supplies fall so short of meeting requirements abroad. However, the Danish Prime Minister stated recently that the Government wishes to restore the former practice of independent sales as soon as possible.

Nonagricultural exports are also controlled by the issuance of export licenses. The various industry trade organizations work as closely as possible with the

Government. The degree of cooperation is generally not as close as in the agricultural governmental relationships except in those industries that are closely knit together, such as the cement industry. It should also be noted that the Government is often a large stockholder in many of the larger industrial concerns and can therefore procure a degree of close cooperation from them.

Agricultural as well as nonagricultural products, with the exception of a few unimportant items, imported into Denmark are subject to the national import license procedure and to foreign exchange allocations. There is no system of commodity committees operating in the importing of agricultural items, with the exception of seeds.

Directive control is naturally exercised in the issuance (or nonissuance) of import licenses and foreign exchange allocations. Applications are examined not only for country of sale and availability of foreign exchange but also for the importance of the merchandise to the Danish economy. Thus many foreign items, particularly those which will not be used locally for the manufacture of goods essential to the national economy or for export, are almost entirely excluded through the denial of import licenses.

In only one case, namely Danekul, is the Danish Government directly participating. Danekul is a semigovernmental organization which arranges for the purchase and import of coal, which is essential to the nation's economy. The board of the organization consists of representatives of the private coal importers, Government agencies, state railways, and utilities. (The representatives of private organizations are in the minority.)

Czechoslovakia

With the exception of the old State monopolies dating from Austro-Hungarian days on the production, importation, and exportation of tobacco, salt, saccharine, explosives, alcohol, and matches, there is no officially organized state trading in Czechoslovakia. The Government nevertheless exercises close supervision and control of foreign trade through the import and export licensing system dating back to the 1930's and through the foreign exchange control exercised by the national bank. Kotva, the largest import-export firm in the country, came under national administration when its parent firm of Bata was nationalized. Omnipol, the next largest firm, is nominally independent but the Czechoslovak Government, through its prewar participation in the ownership of the Skoda works, owns 20 percent and possibly more of the shares of Omnipol. Although these firms are therefore under Government influence, they remain relatively free to compete with each other and with privately controlled Czech and foreign import-export firms. Before the war these two firms held exclusive representation rights with many Czechoslovak factories, which they have continued to hold in spite of the transformation of these factories and groups of factories into national corporations. It is quite possible that the Government, through its import-export licenses and its exchange control may occasionally go out of its way to help these firms but there is little direct evidence that this in fact has taken place. The care with which the different parties in the national front scrutinize the work of each other's ministers has apparently been sufficient to keep the Government fairly objective, as far as foreign trade is concerned, in its work of balancing the competing claims of the public and private sectors of the economy. Thus, although the so-called purchasing missions sent abroad by various industries on occasion make commitments for an entire industry, there seems to be no formal obstacle making it impossible for individual firms—whether they be private or national corporations—to conclude separate purchasing agreements with foreign suppliers if they find it more advantageous to do so.

In principle this same degree of elasticity and freedom exists within the export trade but because of the present generally heavy demand for Czechoslovak exports and the difficulty Czechoslovak industry has so far encountered in meeting all of its domestic and foreign commitments, the foreign buyer is likely to find that he can get earlier delivery on his purchases if he places his order with one of the firms mentioned above. These firms usually have agreements with individual industries to take a fixed percentage of the industries' output.

It is in the supervision of trade with neighboring countries which possess state trade monopolies and in the control of the import of raw materials, however, that the Ministry of Foreign Trade has thus far most closely concerned itself. A Plenipotentiary for Trade with the Soviet Union has been appointed to keep watch on the execution of the trade agreement with the USSR. A similar arrangement is being made for trade with Jugoslavia. As regards importation of raw materials, a bill is now in preparation to give exclusive rights to import certain

raw materials to individual national economic groups or to the importing firms already named. The new arrangement is expected to provide for bulk consolidated purchases of cotton, copper, and possibly other raw materials. For the time being no provision is apparently being made for any additional concentration of control of exports or of imports of other than raw materials.

From 1942 through 1947 global sales of sugar, molasses, and alcohol produced in Cuba have been made by the Cuban Government directly to agencies of the United States Government under powers granted by Decree Law 522 of 1936 and war emergency powers of the President.

(1) Origin and history, article 1 of Decree Law 522 of 1936 empowers the Government, through the Sugar Stabilization Institute, to control sugar production and exports. Under war emergency powers the President also has authority to control exports.

(2) Declared purposes: The global sales of crops from 1942 through 1947 were for the war emergency to provide the United Nations with the maximum quantities of sugar, molasses, and alcohol.

(3) The degree of monopoly: The institute, and hence the Cuban Government, has a complete monopoly for exports of all legally produced quantities of those products.

(4) Volume of business: Global sales of the 1947 crop, including sales to other countries, should amount to some $580,000,000, representing about 93 percent of Cuba's total crop. Sugar alone usually represents about 80 percent of Cuba's total value of exports of all commodities.

(5) The mechanism used: Government-appointed missions negotiate the crop sale contracts with the consultation and agreement of the industry. Administration of the contracts is through the Sugar Stabilization Institute, a semi-Government organization.

(6) Details of operation: Sugar, molasses and industrial alcohol are sold f. o. b. Cuban port to agencies of the United States Government, e. g., the Commodity Credit Corporation and the Reconstruction Finance Corporation. The Cuban administrative agency, the Sugar Stabilization Institute's permanent General Secretary is Manuel Rasco and the position of President is rotated by election by the General Assembly.

(7) Discrimination among foreign countries: The sole purchasers are the United States agencies which distribute among other United Nations in accordance with allocations by an international committee. This is in addition, however, to the limited quantities sold in 1946 and again in 1947 to other American countries under individual contracts with the respective Governments of each country. Any discrimination that may occur here presumably is on the basis of each of the several countries' need for sugar, possibilities of obtaining a permanent market, and of obtaining, in return, concessions either in the form of food products needed in Cuba or by granting markets for Cuban products, such as cigars for shipment to Mexico.

United Kingdom

1. The greater part of state-trading by the United Kingdom is at present and will continue to be mostly in imports of foodstuffs and raw materials, though some reexport and "third country" trading will develop in raw cotton and possibly also in coffee and a few other products of importance to the economic life of colonial territories.

2. The scope of state-import-trading in the future is obscure because the Government's declared policy is to make its decisions on each product in the light of all the relevant circumstances.

3. Bulk-buying of all west African cocoa is to be carried out by state-appointed boards, which will fix buying prices for each season. West African cocoa will in turn be sold on the world's markets by a body to be set up in London.

4. The £24,000,000 project for mechanized production of ground nuts in east Africa, designed on a large scale and intergrated with colonial development policy, is likely to be followed by other schemes,[1] but any such development for high-cost production of products not in world short supply—e. g. cotton, tobacco, etc., is unlikely unless Britain continues for some years to be in its present acutely difficult balance of payments position.

5. The centralized buying scheme for cotton is an experiment, the success of which it will be impossible to assess for a long time since the aim is to maintain some undefined degree of price stability over an unspecified period of years.

[1] Though probably of not so vast a nature.

6. It appears to be the policy to abandon state-procurement in the raw material field (with the exception of cotton) as the scarcity factor disappears—but no definite forecast is justified on the fate of such important materials as nonferrous metals and timber. Balance of payments considerations may in some cases prolong state trading beyond the life of scarcities of a given product.

7. Foodstuffs will continue to be purchased in bulk, probably increasingly on long-term contracts, so long as scarcities prevail. Even when food products become more abundant, limited foreign-exchange resources will necessitate domestic rationing of some items which, in turn, will require state trading, so that the course of Britain's balance of payments position may largely determine the scope of bulk purchasing. Since rationing of the essential foods is regarded by some Labor Party leaders as permanently desirable, state trading in the principal staple foods may possibly become more or less permanent.

8. Colonial development projects blend well with long-term bulk-purchase contracts as well as with extensive production projects such as the peanut scheme launched by the Ministry of Food and the Colonial Office. The long-term bulk-purchase contract—by offering an assured market for total crops for a number of years—introduces an element into purchase deals by the state, the relative "commercial" value of which it is extremely difficult, if not impossible, to assess. ITO might develop a sort of international tender system by which open offers to all producers on similar terms might be required when governments wish to make such contracts.

9. State export trading in products of nationalized industries is not a near prospect of importance since coal, the only export industry as yet nationalized, for the present holds out no hope of any appreciable export surplus. Coal exports will probably be confined to shipments of bunkers for United Kingdom overseas bases and small quantities to Eire for the next few years.

Coal, if available for export, would offer a useful bargaining counter in negotiations for scarce imports—expecially timber—but by the time a British exportable surplus is available, if ever, the value of this asset may have largely disappeared as a result of increased production in Europe.

Brazil

There are only rare instances in which "state trading" has been undertaken in Brazil and even then generally it is implemented through regular commercial channels. Probably the strongest case of state trading is the monopoly of the ipecac trade centered in the Bank of Brazil, which has been authorized by law as the sole buyer and seller of the root. The bank, however, has delegated its buying and selling activities to normal dealers in the commodity, so that in actual practice it acts more as a controlling agent than as a holder of a state trading monopoly. The same may be said of the rice, cocoa, and coffee trades, which also involve some phases of state trading. The control over rubber production and trade is of a more comprehensive nature, but it was instituted to implement the rubber agreement between the United States and Brazil, which is still in force.

The activities of the National Petroleum Council are in a stage of development and it is not yet a factor in the petroleum trade. For the time being it enters the field of state trading primarily as a direct purchaser of equipment.

The only instance of Government purchase for resale is in connection with agricultural machinery for resale to farmers at cost. The remainder of the state trading is largely devoted to purchases of the Government and Government controlled industries for their own use.

The Government authorized the export-import department of the Bank of Brazil to have a monopoly of purchase and sale of ipecac to supply the demand for emetine. The bank delegated its powers to firms customarily engaged in the ipecac business, merely fixing the prices at which they should buy, and sell, and established quotas for the firms buying from the ipecac dealers, since the supply was short.

Rice.—The State of Rio Grande Do Sul established the Rice Institute which controls the purchase, milling, and sale of rice for export. Exporters bring offers from foreign sources to the institute, then authorize the prices at which the sales may be made and the quantities to be made available. The institute also sets the price to be paid the producers of rice and the amount of the milling charges.

Cocoa.—The State of Bahia has established the Cocoa Institute which controls all purchases and sales of cocoa for export.

Coffee.—From mid-1944 to June 30, 1946, the Federal Government controlled the purchase and sale of coffee for export. It acted through export firms but itself determined prices of the sales.

Rubber.—On July 9, 1942, the Rubber Bank was established for a period of 20 years. The bank buys all the rubber produced, rations a certain amount for domestic consumption, and exports the balance. To implement its control, the bank limits the amount of finished rubber goods to be imported, because the price paid by the domestic consumers of crude rubber is above that prevailing in world markets.

Petroleum.—Eight representatives of as many agencies in the Federal Government form the Petroleum Council. The council controls every phase of the petroleum industry even to the construction of refineries and the granting of oil leases.

Agricultural equipment.—For many years there has existed within the Federal Department of Agriculture the Division de Fomento da Producao Vegetal which purchases agricultural equipment abroad for resale or loan to farmers.

Purchases by Government departments.—Nearly every department has some funds available for its own operations.

Autonomous Government-controlled industries.—These are industries owned by the Government but operated like private corporations. There are two steamship companies, a railway, a steel plant and byproduct coke operation and iron-mining company, one making airplane motors.

Mexico

International trading by the Government of Mexico itself, or its wholly owned agencies, is extremely limited. Actually most of the foreign business of the country is done by various types of associations which are organized in farms prescribed by the Government and operate under greater or less Government supervision. An exception to the general rule occurs in the case of Petroleos Mexicanos.

Petroleos Mexicanos.—In Mexico the petroleum industry has been nationalized in all its branches. The wholly owned Government agency which constitutes the industry is Petroleos Mexicanos. It seems, although it is not possible to find out for sure, that Petroleos Mexicanos is subject to all the taxes levied against private businesses, and that it receives no compensating privileges. In any case the petroleum industry of Mexico is on an import rather than an export basis, so there is no competition with the products of other nations in world markets.

Nacional Distribuidora y Reguladora.—State trading in another form occurs in the operations of Nacional Distribuidora y Reguladora. Because of the shortages caused by the war this agency was organized by the Government to perform functions somewhat similar to those assigned to OPA. The agency is controlled by the Government through the ownership of a majority of the voting stock.

Other stockholders are the larger banks and two labor organizations. The agency is intended, besides regulating prices and distribution, to assist private interests in securing the capital to provide warehouse and transportation facilities. Its manner of operating differs materially from that of OPA in that it itself buys the supplies of scarce commodities. It then arranges for distribution through wholesale and retail channels.

Where Distribuidora finds a surplus of any commodity it is authorized to engage in export operations. Actually it has never done so because there has never been a surplus. At the time of its organization, however, it was made eligible for export and import subsidies.

It was understood from the first that Distribuidora would exist only during the period of war shortages, and it has already relinquished control over a great many commodities. When its activities were at their height, however, it provided the only market in Mexico for a great many commodities.

Cooperatives-Federations of Cooperatives.—A much more important constituent of the normal commercial life of Mexico than either Petroleos Mexicanos or Distribuidora are the producers' (worker's) cooperativos. They represent a modern development of the concept, common alike to Spain and Aztec Mexico before the conquest, that private property rights are held only permissively from the sovereign.

The Mexican Constitution of 1937 made elaborate provision for the organization and regulation of producers' (workers') cooperatives. Under the constitution the formation of the cooperatives must be approved by the Federal Ministry of Economy, and its operations are regulated by the Ministry in the public interest. Even its contracts, in the typical case, have no validity until they bear the stamp of Government approval

Cooperatives are also required to join the appropriate federation of cooperatives if one is in extence. Notwithstanding these limitations on their activities,

cooperatives receive such benefits, in the form of exemption from taxes and eligibility for subsidies, that in the industries where they exist they are usually monopolies—there are no individual producers or traders. The Government undertakes to control the whole economy of the country in the interest of all its inhabitants. For the attainment of this end it avowedly grants more assistance to the weak industries and sections of the country than to the strong, even to the point of maintaining enterprises which, if left to themselves, could not hope to survive.

The favor shown cooperatives over individuals extends also to the export field, although only in a negative way. Mexico levies export taxes which are remitted to cooperatives but not to independents.

No general statement regarding the rights and privileges of cooperatives in export trade is possible, since those differ slightly in different cases. It is possible to say, however, that in any commodity where there is a federation of cooperatives or cooperativos, those associations do the bulk of the exporting.

The consent of the Ministry of Economy, however, must be secured for export contracts as well as for sales in the domestic market. And that consent will not be given if the execution of the agreement would cause a shortage of the commodity in Mexico.

It would be difficult to say that because of their quasi-public character the cooperatives or their federations gain any advantage in export markets. The fact that they are relatively large organizations, and exercise almost a monopoly control of their product in Mexico, may give them some economic advantage in world markets.

Companies of public interest and similar organizations.—Also subject to supervision by the Ministry of Economy are a group of companies, classified according to the particular law under which they are organized—

(*a*) Companies of public interest.
(*b*) Companies enjoying special privileges or exemptions.
(*c*) Producers' associations.

In providing for the formation of associations of these types the Government again aimed to assist groups and industries in a particularly weak position. Their legal status closely resembles that of the cooperatives. Their contracts do not, however, require governmental approval. On the other hand they are required to furnish to the Government somewhat more detailed and frequent reports than are required of the cooperatives. And the Government exercises a greater degree of control over their operations and fixes their prices. In the matter of exports they stand on the same footing as the cooperatives, not being subject to export taxes. It cannot be said that they gain any positive advantage in foreign trade because of their relationship to the Government.

France

State trading operations in France range from a complete long-established monopoly of the importation, manufacture, domestic production and exportation of a single-product, tobacco, to a temporary selling monopoly of lend-lease surplus property. The former was established in 1810, and the latter in 1946. Between these two extremes, certain activities should also be considered in connection with the general subject of state trading in France. The National Cereals Board (Office National Interprofessionnel des Céréales) should be placed generally in the same category with the tobacco monopoly, although it does not exercise the same degree of control over domestic cereals production as the tobacco monopoly does over tobacco production.

During the war, French supply missions were established in the United Kingdom, the United States, and Canada for the procurement of necessary supplies. As a complement to these supply missions there was created in France the Service d'Importation et d'Exportation (Impex), the principal function of which was to take over ownership of the commodities purchased by the various supply missions and to provide for their transportation to France and subsequent distribution, in accordance with decisions of the French allocation authorities. Gradually, and especially since the beginning of 1946, the functions of the French supply missions abroad have been reduced. There has been a consequent reduction, therefore, in the functions of Impex.

However, the reduction of the functions of the supply missions have not resulted in an immediate transfer of these functions to private French importers. There has been a transitional stage characterized by a number of quasi-governmental organizations (groupements d'importation) which were originally established during the war to coordinate the supply of particular materials. As the functions of the supply missions abroad have been reduced, these quasigovernmental

organizations have been given increasing responsibility for importations into France. According to both French Government officials, and many businessmen who participate in these groupements, they are essentially a temporary phenomena and are being used because of the problems of the transitional period. It is anticipated according to present thinking that their functions will be gradually reduced and trade returned to private commercial channels.

Paraguay

Direct international state trading is one of the activities of the National Subsistence Administration. This agency of the Paraguayan Government was given wide powers, as a wartime measure, to control imports of essential commodities by allocating quotas to individual importers, as well as by importing for its own account commodities in short supply. These powers have been found particularly useful in handling bulk purchases of Argentine wheat for resale to domestic millers. The agency also imports salt, cement, caustic soda, and carbon dioxide for resale. Business organizations are represented on the Board of the National Subsistence Administration. No other agencies engage in important state-trading activities. State trading, as practiced by the Paraguayan Government is generally accepted by the local business community as necessary so long as supplying countries, notably Argentine, require government-to-government negotiations in important foreign trade transactions.

Eventually, various government and quasi-governmental enterprises may become important factors in the export trade, involving substantial Government participation in activities which otherwise would be handled entirely by private exporters. For the time being, however, state-owned, or mixed public and private organizations, are not an important factor in Paraguay's international trade. Only the National Subsistence Administration appears to exercise effective control over a significant part of Paraguay's foreign commerce. In this instance control is not exercised in a way which appears to be monopolistic or discriminatory. The powers granted the agency, however, are sufficiently broad to permit the development of a complete monopoly over any imported commodities which the Board considers essential to the economy.

Poland

The foreign trade of this country is in fact, though not in name, a Government monopoly. Positive control of foreign trade is accomplished first, through the requirement by the Polish Government of a license covering each individual order or shipment and secondly, through the rigid control over foreign exchange which is also exercised by the Government.

There are two noteworthy apparent exemptions to the above in the Spolem, which is the agricultural and consumers' cooperative of the country; and the DAL, which before the war was a stock company with ownership vested in a number of private citizens, engaged in the meat-packing business. In each case, however, a casual study reveals that the Government can and does exercise control over their foreign dealings. In the case of the Spolem, or agricultural cooperative, it is today actually a Government organization. In that of the DAL the Government has secured stock control of the company which obviously permits it to control its policies and foreign dealings.

In addition to the above, there is an organization known as the Panstwowa Centrala Handlowa which is a bureau of the Government set up for the sole purpose of engaging in both foreign and domestic trade.

Through the unrealistic rate of exchange of 100 zlotys to the dollar which was established in 1945 by the Polish Government, it is virtually impossible for private trade to be carried on with the hard-currency countries. This is best illustrated by the fact that the current open market rate for the dollar varies from 1,000 to 1,300 zlotys. The result has been to bring about a series of bilateral trade agreements which at first were on a straight compensation basis or exchange of products. More recently, however, in its trade negotiations with Norway, Sweden, and Finland, the Polish Government, in addition to the exchange of commodities, has inserted clauses which will result in its receiving a part at least of the compensation in dollar or pounds sterling, which will not affect the control over foreign exchange. Therefore, it cannot be construed as a relaxation of the Government's control over foreign trade.

Switzerland

Prior to the war the Swiss Government exercised monopolistic control over only three commodities, viz, alcohol, gunpowder, and salt. In the case of alcohol the control developed out of a social policy. The security of the state, it was thought,

was increased by its control of gunpowder. Salt was controlled because it provided an exceptionally easy means of raising revenue.

In each of these commodities, either the Government itself or an agency altogether under its control, is the agency which exercises all the functions incident to importation. The limitation of Government control to these three commodities was in accord with Swiss history and the attitude of the Swiss people.

During the war however, Switzerland was entirely surrounded by belligerents and it was recognized that a fair distribution of products in short supply required the intervention of the central Government. This control, however, was thought of as purely temporary, and since the close of the war the controls have been eliminated as quickly as practicable. As of March 1, 1947, only four commodities, viz, sugar, cereal and fodder grains, coal, and oils and fats, continued under close federal control.

Sugar.—The commodity section of the Swiss War Economy Board makes all purchases of sugar, whether of domestic or foreign origin. Distribution to consumers is in accordance with rules established by the commodity section.

Cereal and fodder grains.—A Government agency, the Federal Cereal Administration, controls the fodder and cereal commodities. This agency purchases all domestic production and distributes both it and that purchased abroad. The importation of fodder grain only, however, it has delegated to a special agency.

Coal.—All domestic and foreign coal is allocated by the Swiss Government. The Government has, however, delegated to each of several Government agencies the function of purchasing and importing coal from a particular foreign country.

Oils and fats.—Due to the extreme scarcity of oils and fats purchasing representation is maintained by the Swiss Government in Washington, and one or more of the largest oil-processing firms has, on occasion, been permitted to buy for their own account in foreign countries. Otherwise all oils and fats to be sold in Switzerland are purchased and allocated by the Government agency known as Cibaria, working in conjunction with an association of all the members of the oil and fat industry and the Oil and Fat Section of the War Emergency Board.

All of the operations indicated above were authorized by a special war power granted to the Federal Government and are understood to be of an altogether temporary nature.

It perhaps should be pointed out that an import license is necessary for all commodities under international allocation. Imports are also affected by bilateral trade agreements and quotas. These two last devices have been resorted to (*a*) as a substitute for tariffs and (*b*) to control foreign exchange. Also, price control is exercised over imports when they enter the domestic market.

Senator McGRATH. Mr. Brown did say of this document that he did not regard it as a complete statement of the position.

What were your observations on that, toward the close of the testimony yesterday, Mr. Brown?

Mr. BROWN. My point was, Mr. Chairman, that the document was factually accurate as far as we have been able to check, but that it did embrace a number of subjects which were not actually state trading, as we have been discussing it at this hearing, and it was also not complete on the subject of state trading.

But subject to that comment, it is a perfectly accurate document.

Senator MILLIKIN. I do not offer it for any purpose other than the information that it may contain, relevant or irrelevant.

We were discussing article XVIII and had finished with paragraph 7. Is that your understanding?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I notice paragraph 8 opens with the words [reading]:

> If the proposed measure does not fall within the provisions of paragraph 7, the contracting party—

and then a series of permissions are given to the contracting party.

Will you give us some examples that fall outside of paragraph 7?

Mr. BROWN. I would think that a case in which a contracting party desired to impose a quota to limit the imports of a product in which

it was starting a manufacturing industry would not come within section 7. That is to say, a manufacturing industry not concerned within the manufacturing of an indigenous primary commodity, or not a "war baby."

Senator MILLIKIN. Would you say that the purpose of that paragraph is to bring within its scope all of the infant industries which are not dealt with specifically in the preceding paragraph?

Mr. BROWN. Yes, sir.

The preceding paragraph might be described as defining a prima facie case in a limited number of instances where, if a prima facie case is made, approval would probably follow almost automatically.

Paragraph 8 deals with the broader range of cases in which a judgment would need to be made by the contracting parties without that guidance as to the sufficiency of the complaint.

Senator MILLIKIN. Paragraph 8 (a) provides [reading]:

> may enter into direct consultations with the contracting party or parties which, in its judgment, would be materially affected by the measure. At the same time the contracting party shall inform the Contracting Parties of such consultations in order to afford them an opportunity to determine whether all materially affected contracting parties are included within the consultations. Upon complete or substantial agreement being reached, the contracted party interested in taking the measure shall apply to the Contracting Parties. The Contracting Parties shall promptly examine the application to ascertain whether the interests of all the materially affected contracting parties have been duly taken into account. If the Contracting Parties reach this conclusion, with or without further consultations between the contracting parties concerned, they shall release the applicant contracting party from its obligations under the relevant provisions of this Agreement, subject to such limitations as the Contracting Parties may impose.

Here again with whatever the implications may be from my standpoint, or your standpoint, the contracting parties have the ultimate voice in the matter.

Mr. BROWN. No, sir. If the applicant consults with the other parties who are interested and gets agreement, then the release would follow. The contracting parties would have the right to say, "You left out somebody who was materially affected."

Senator MILLIKIN. I said the ultimate voice.

Mr. BROWN. The ultimate voice in that limited sense.

Senator MILLIKIN. In other words, if the prior consultation between the contracting parties did not result in agreement, the contracting parties as such would have power to reach a decision.

Mr. BROWN. Yes, sir. It is provided in paragraph (b) that they have a right to reach a decision if there is not agreement between the contracting parties. [Continues reading:]

> (b) may initially, or in the event of failure to reach complete or substantial agreement, under subparagraph (a), apply to the Contracting Parties. The Contracting Parties shall promptly transmit the statement submitted under paragraph 6 to the contracting party or parties which are determined by the Contracting Parties to be materially affected by the proposed measure. Such contracting party or parties shall, within the time limits prescribed by the Contracting Parties, inform them whether, in the light of the anticipated effects of the proposed measure on the economy of the territory of such contracting party or parties, there is any objection to the proposed measure. The Contracting Parties shall,
>
> (i) if there is no objection to the proposed measure on the part of the affected contracting party or parties, immediately release the applicant contracting party from its obligation under the relevant provisions of this Agreement; or

(ii) if there is objection promptly examine the proposed measure, having regard to the provisions of this Agreement, to the considerations presented by the applicant contracting party and its need for economic development or reconstruction, to the views of the contracting party or parties determined to be materially affected, and to the effect which the proposed measure with or without modification is likely to have, immediately and in the long run, on international trade, and, in the long run, on the standard of living within the territory of the applicant contracting party. If, as a result of such examination, the Contracting Parties concur in the proposed measure, with or without modification, they shall release the applicant contracting party from its obligations under the relevant provision of this Agreement, subject to such limitations as they may impose.

I notice, there, that the standard of living becomes a subject of judgment by the contracting parties.

Mr. BROWN. They may consider that.

Senator MILLIKIN. They consider the long-term effects on international trade, the short-term effects on international trade, and the effects on the standard of living?

Mr. BROWN. That was something that many of the countries who thought they might wish to make application under this provision at some time wished to have considered.

Senator MILLIKIN. Is it a purpose of GATT to authorize the contracting parties to concern themselves with and make judgments in reaching other judgments and decisions on the standard of living within the territory of any contracting party?

Mr. BROWN. It was considered that that was an element of judgment in determining whether or not the application for release had a sound economic basis.

Senator MILLIKIN. The closing sentence of the subparagraph which has just been read again lodges the final or ultimate decision in the contracting parties. That, I assume, was what you were referring to when we were discussing the preceding portion.

Mr. BROWN. Yes, sir. It gives them a right to prevent a wide-open disregard of the provisions of the agreement, and to limit the relief to the case where it was thought to be appropriate.

Senator MILLIKIN. Their powers of limitation are not restricted in any way. I notice the language "subject to such limitations as they may impose."

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. Paragraph 9 reads:

If, in anticipation of the concurrence of the Contracting Parties in the adoption of a measure referred to in paragraph 6, there should be an increase or threatened increase in the imports of any product concerned, including products which can be directly substituted therefor, so substantial as to jeopardize the establishment, development, or reconstruction of the industry or branch 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 decision by the Contracting Parties on the contracting party's application; provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which notification was given under paragraph 6.

Would you mind explaining the purpose of that, Mr. Brown?

Mr. BROWN. That is exactly the same as paragraph 4 (a), and all of the comments made with respect to paragraph 4 (a) apply

with respect to this one. I think it is identical in words. It is certainly identical in substance.

Senator MILLIKIN. Again we have the philosophy that what relief may be available or granted is subject to the proposition of not reducing imports below a prior level.

Mr. BROWN. The purpose of this paragraph is to prevent a sudden increase in flood of imports on the expectation of a limitation, and simply to keep the status quo until the limitation is put into effect. Because otherwise a good deal of the effect of the limitation and its objective of protecting the industry in question could be frustrated.

Senator MILLIKIN. I believe you have already given it as your opinion that that power is a necessary implication from the powers which are granted in the Reciprocal Trade Act?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. All right. [Continues reading:]

10. The Contracting Parties shall at the earliest opportunity but ordinarily within 15 days after receipt of an application under the provisions of paragraph 7 or subparagraphs (a) or (b) of paragraph 8, advise the applicant contracting party of the date by which it will be notified whether or not it is released from the relevant obligation. This shall be the earliest practicable date and not later than ninety days after receipt of such application; provided that, if unforeseen difficulties arise before the date set, the priod may be extended after consultation with the applicant contracting party. If the applicant contracting party is not so notified by the date set, it may, after informing the Contracting Parties, institute the proposed measure.

Do you feel any comment is appropriate there?

Mr. BROWN. The purpose of that is simply to see that there are some time limits and that any application does not just bog down and get lost in red tape.

Senator MILLIKIN. Paragraph 11 reads:

Any contracting party may maintain any nondiscriminatory protective measure affecting imports in force on September 1, 1947, which has been imposed for the establishment, development, or reconstruction of a particular industry or branch of agriculture, and which is not otherwise permitted by this Agreement; provided that notification has been given to the other contracting parties not later than October 10, 1947, of such measure and of each product on which it is to be maintained and of its nature and purpose.

Have notices been given under this paragraph?

Mr. BROWN. Yes, sir. There were a comparatively small number of cases of this kind. They were notified by the parties to the agreement before its signature in Geneva and they were not considered of enough importance to affect the desire of the parties to sign the agreement. They will be reviewed again at the Annecy meeting to see whether they should or should not be continued.

Senator MILLIKIN. Can you give us an idea of the nature of those instances?

Mr. BROWN. Yes. One of them that comes to my mind—and I am afraid only one does, after a period of 2 years—is a case of a country that had put a quota on the importation of some type of ribbons with the avowed purpose of helping to establish a ribbon industry. The ribbons were not in the schedules, and it was considered that it would be all right for them to continue to maintain that quota. There were a number of other instances of that kind, none of them of particular magnitude.

Senator MILLIKIN. Paragraph 12 reads:

Any contracting party maintaining such measure shall within 60 days of becoming a contracting party submit to the Contracting Parties a statement of the considerations in support of the maintenance of the measure and the period for which it wishes to maintain it. The Contracting Parties shall, as soon as possible, but in any case within 12 months from the date 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 paragraphs 1 to 10, inclusive, of this article.

Have the contracting parties complied with that provision?

Mr. BROWN. This would cover the case of a new party coming in. It is exactly the same type of provision as the preceding paragraph; except that it applies to a new party coming in.

Senator MILLIKIN. And have new parties come in?

Mr. BROWN. No, sir; no new parties have come in.

Senator MILLIKIN. No country has availed itself of this particular paragraph?

Mr. BROWN. No, sir.

Senator MILLIKIN. Paragraph 13 [reading]:

The provisions of paragraphs 11 and 12 of this Article shall not apply to any measure relating to a product in respect of which the contracting party has assumed an obligation under Article II of this agreement.

What does that mean?

Mr. BROWN. That means that the permission to maintain restrictive measures of this kind does not apply to any product which is included in the tariff schedules. In other words, when a tariff rate has been negotiated you cannot keep restrictive measures that would be permitted in the preceding paragraphs.

Senator MILLIKIN. That would apply in the case of the ribbons, and possibly other cases; where advantage was taken of these paragraphs?

Mr. BROWN. That is right, sir. There were a number of cases at Geneva, I think, sir, where a country transmitted some restrictions they wanted to maintain which were on scheduled items, and when that was called to their attention they withdrew them.

Senator MILLIKIN. Paragraph 14 [reading]:

In cases where the Contracting Parties decide that a measure should be modified or withdrawn by a specified date, they shall have regard to the possible need of a contracting party for a period of time in which to make such modification or withdrawal.

The interpretative notes:

Paragraph 3:

The clause referring to the increasing of a most-favored-nation rate in connection with a new preferential agreement will only apply after the insertion in Article I of the new paragraph 3 by the entry into force of the amendment provided in the Protocol modifying Part I and Article XXIX of the General Agreement on Tariffs and Trade dated September 14, 1948.

What does that mean, Mr. Brown?

Mr. BROWN. That is just a long way of meeting the same technical point that has cropped up several times, that if a new preference should be agreed to be permitted by the contracting parties under that Ottoman Empire clause that is referred to in article I, then it would have certain technical effects and you could increase the most-favored-nation rate. It is something that has not happened, that is unlikely to

happen, and that, if it does happen, will be in a very limited field; but to be legally complete this had to be included.

Senator MILLIKIN. Referring now to 7 (a) (ii) and (iii) [reading]:

The word "processing," as used in these subparagraphs means the transformation of a primary commodity or of a byproduct of such transformation into semi-finished or finished goods but does not refer to highly developed industrial processes.

Where would you draw the distinction? I mean, you can take the primary commodity and turn it into a byproduct, into semifinished or finished goods, and the process might be a highly developed one. We have interim highly developed progressive steps in the processing of minerals. The process is often quite complicated, involving very high technologies.

Mr. BROWN. That is correct, Senator; but if you will recall, paragraph 7 (a) (ii) and (iii) apply to situations of a primary product and rather simple circumstances; and that is just intended to exclude the situation, for example, of making tool steel, or something like that.

Senator MILLIKIN. As to article XVIII, what, if anything, do you intend to bring back for the action of Congress or the approval of Congress?

Mr. BROWN. Nothing.

Senator MILLIKIN. What are your precedents and derivations for this article?

Mr. BROWN. There is no precedent for this article in this form. The article provides exceptions from the general rule against the use of quantitative restrictions, and there have been rules in preceding trade agreements against the use of quantitative restrictions with some exceptions in them, but not an exception of exactly this kind or of this subject matter.

Senator MILLIKIN. Coming to article XIX, entitled "Emergency Action on Imports of Particular Products" [reading]:

1. (a) If, as a result of unforeseen developments and of the effect of the obligations incurred by a contracting 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 products, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligations 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 subparagraph (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 products 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 subparagraph (a) of this paragraph, where action is taken under 2 of this Article without prior consultation and causes or threatens serious injury in the territory of a contracting 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."

How does this article compare with article 40 of ITO?

Mr. BROWN. I think it is the same. It does not contain paragraph 4 of the article which is in the ITO; otherwise it is the same, or substantially identical.

Senator MILLIKIN. It is identical in part?

Mr. BROWN. All of the material which is in article XIX is in the charter. There is in the charter an additional paragraph which is not in article XIX.

Senator MILLIKIN. The language is identical?

Mr. BROWN. Yes, sir; subject to the minor adjustments that we have assumed.

Senator MILLIKIN. Would you mind explaining the article?

Mr. BROWN. Yes, sir. This is the Mexican escape-clause article, which permits the withdrawals of the tariff concession if serious injury is caused or threatened to a domestic producer as a result of imports under the concession.

Senator MILLIKIN. Would you mind explaining the part that deals with preferences?

Mr. BROWN. Yes, sir. In certain cases a country which enjoyed a preference might be just as much injured by the removal or modification of the preference as by the change of a tariff, and in such a case, the escape clause would also apply.

Senator MILLIKIN. I did not get a clear picture from paragraph 1 (b). Let me read it again. [Reading:]

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 subparagraph (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——

Mr. BROWN. May I explain?

Senator MILLIKIN. Yes.

Mr. BROWN. An industry in this country, for example, might have a very substantial and important market in Cuba. If, as a result of a negotiation, the Cubans modified that preference, with our agreement, it might be later that the imports which came into Cuba as a result of that modification, would injure, or, you might say, take away the market that we had as a result of the preference; and in such a case Cuba would be free, if we asked them to, to revoke this clause and to restore the previous margin of preference.

Senator MILLIKIN. That is designed, then, under certain circumstances, to protect the preference.

Mr. BROWN. Yes, sir; to recognize the fact that a modification of a preference, which is a tariff right which you have, could cause injury or threaten injury exactly as the modification of a tariff rate itself might do; and therefore to permit the invocation of the escape clause to remedy such a situation.

Senator MILLIKIN. I invite your attention to the latter part of 3 (a), where the power of the contracting parties is stated in terms of not disapproving. Why was that negative aspect given to the matter?

Mr. BROWN. We considered that important, Senator, because if we should invoke the escape clause another country might retaliate by withdrawing very considerably more concessions than would be substantially equivalent, than would restore the balance of the bargain. We wished to have some break on unbridled retaliation of that kind. That is the purpose of it.

Senator MILLIKIN. The compensation escape, then, is also subject to the ultimate decision of the contracting parties.

Mr. BROWN. They may make a judgment and disapprove the retaliatory action if it goes beyond the point of compensation.

Senator MILLIKIN. We have not given much attention to that limitation on our power of escape in the discussion of this agreement.

Mr. BROWN. There is no limitation on our power to escape.

Senator MILLIKIN. But there is a limitation on our power to take a compensatory escape if the other fellow tries to escape from us.

Mr. BROWN. That is correct. We could not abuse that power, nor could the other fellow if we escaped. And this clause was put in at the suggestion of the United States.

Senator MILLIKIN. Well, there, it depends on whose ox is gored. But the compensatory escape, no matter which nation takes it, is subject to final decision by the contracting parties.

Mr. BROWN. That is correct, Senator.

Senator MILLIKIN. With reference to 3 (b), what is the role of the contracting parties in that subparagraph?

Mr. BROWN. I would say the role is the one you have described, of seeing to it that there is not abuse of the authorization to make compensatory withdrawals. The first function is simply one of receiving a notice and fixing a time.

Senator MILLIKIN. Do you intend to bring any part of this back to Congress?

Mr. BROWN. No, sir. We think we have an indication from the Congress that they want to have this in the agreement.

Senator MILLIKIN. Well, even that would not be a complete answer; because our indication to you of something which we might want does not answer the jurisdictional questions involved.

What is the derivation of what you have discussed in this and other connections?

Mr. BROWN. Mexico and Paraguay.

Senator MILLIKIN. Mexico and Paraguay?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. The next is article XX, General Exceptions. [Reading:]

> 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 of

international trade, nothing in this agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

1. (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, trademarks, and copyrights, and the prevention of deceptive practices;

(e) relating to the products of prison labor;

(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 coordinating 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 nondiscrimination;

2. (a) Essential to the acquisition or distribution on 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.

Does this article coincide with article 45, ITO?

Mr. BROWN. It is substantially the same.

Senator MILLIKIN. Identical language?

Mr. BROWN. No, sir; it is not identical. I would again say that all that is in this article appears in the charter, but not necessarily everything that is in the charter appears in this article.

Senator MILLIKIN. Is there anything in article 45 of the charter that differs in philosophy from article XX of the general agreement?

Mr. BROWN. Oh, no; not in philosophy. Most of this is boilerplate, and has been in every trade agreement or commercial treaty that we have had, practically.

Senator MILLIKIN. Let me invite your attention to the words in the introductory language, "arbitrary or unjustifiable discrimination" and "disguised restriction." Who decides the question?

Mr. BROWN. I would assume that if a decision were necessary, if a complaint were made, and if agreement were not reached between the party making the complaint and the party imposing the measure, the contracting parties as a group would make the decision.

Senator MILLIKIN. Inviting your attention to I (c), does that subparagraph have fund angles?

Mr. BROWN. No, sir; this simply means that any party can do anything it wants about limiting the export or import of gold or silver. It is completely out of the scope of this agreement. That provision has been in every trade agreement that we have ever had.

Senator MILLIKIN. But does it have any impact on our fund agreement?

Mr. BROWN. No, sir.

Senator MILLIKIN. Inviting your attention to I (d), there is a reference to—

> the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII.

What is the significance of that?

Mr. BROWN. The significance of that is that if a country decides it wants to conduct the trade in a particular product through a state enterprise, it could, if necessary to accomplish that, prohibit anybody else from trading in it.

Senator MILLIKIN. Give us an example.

Mr. BROWN. The tobacco monopoly in France.

Senator MILLIKIN. We have decided to exempt the tobacco monopoly of France?

Mr. BROWN. We always have, Senator. It has been there for a long while.

Senator MILLIKIN. Does it, in this agreement?

Mr. BROWN. This agreement would permit a limitation to preserve the effectiveness of the monopoly.

Senator MILLIKIN. Is there any time base, so far as this particular provision is concerned? Monopolies in existence as of the date of the agreement? Or does it contemplate future monopolies?

Mr. BROWN. No, sir. It might very well be, for example, that the United States would wish to do all its buying and selling of tin, as I think it does, through a Government agency; and if it desired to continue that and to prohibit anybody else from exporting or importing tin, it could do so, and no one could raise an objection under this agreement.

Senator MILLIKIN. So that subject is open for future exploitation as well as past.

Mr. BROWN. This simply says that this agreement does not get into that.

Senator MILLIKIN. Let me invite your attention to I (g) [reading]:

> (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.

Would you give us examples, please?

Mr. BROWN. If a country should decide that for reasons of conservation it wished to limit the use of a particular natural resource and limit the domestic production or consumption or both, then it would

be permitted also to limit its imports or exports. It would have an absolute right to do so.

Senator MILLIKIN. Can you translate that into terms of oil?

Mr. BROWN. That would apply in the case of oil.

Senator MILLIKIN. Just how would it apply? Now, we have many codes for the conservation of oil. What are our import and export restriction privileges, as far as the conservation of oil is concerned?

Mr. BROWN. I am not a sufficient expert in that subject to answer the question.

Senator MILLIKIN. Well, I am not asking you what the technicalities are of producing the oil or transporting it, or refining it.

Mr. BROWN. I know just enough about it, Senator, to know that it is a highly complicated and technical subject in all of its aspects, and that I am not qualified to comment upon it.

Senator MILLIKIN. Well, I will put it to you again.

There are many conservation measures of the States affecting the production of oil, and they are all designed to conserve that exhaustible natural resource.

Now, what does this paragraph mean by the language [reading]:

if such measures are made effective in conjunction with restrictions on domestic production or consumption?

Mr. BROWN. I could give you one illustration, Senator. We could not justify, under this particular exception, a prohibition on the export of oil on the ground of conservation unless there was some restriction on domestic production or consumption. But if we were restricting our domestic production or consumption on the ground of conservation, we could also restrict exports.

Senator MILLIKIN. You say we could restrict exports?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. If we were also restricting production or consumption?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What about imports?

Mr. BROWN. Well, we would be unlikely to want to restrict imports for conservation reasons.

Senator MILLIKIN. That is exactly what I am getting at. Supposing we shut down production in the interests of conservation. That is what happens all the time. That is the purpose of the conservation, to restrain wasteful production in the interest of the conservation of gas. Now, we have these conservation laws in effect. We are, by that token, restraining our own production. Could we impose complete import restrictions?

Mr. BROWN. I don't know the answer to that question, Senator.

Senator MILLIKIN. Who could determine it? That must have been considered. That must have been known as one of the important articles of world trade.

Mr. BROWN. I don't know, Senator. I can't give you the answer.

Senator MILLIKIN. Can you get the answer?

Mr. BROWN. I think it would be impossible to give any categorical answer, because the nature of the measures for restriction and their extent, the area which they cover, the product they cover, and the nature of the proposal for the limitation of imports and what it covered, would all have a bearing on the question. I just couldn't give

you a categorical answer. I don't think anybody could, without having a particular proposal in mind which could be measured against this test.

Senator MILLIKIN. I suggest that you are making great difficulty in a subject which is essentially very simple. All of these conservation measures have a certain effect in preventing excessive production of oil, because when you produce oil excessively, you are usually wasting a propulsive force which is in the ground, the gas. So in that sense you always have a restriction on domestic production. It is intended in the long run, of course, to yield you a whole lot more oil than would be yielded if you did not impose that restriction. But from day to day you are producing less than you could produce from day to day by wasteful methods.

Now, is it your opinion, that so far as embargo is concerned, you would not be permitted to put on an embargo while such conservation measures are in effect?

Mr. BROWN. I don't know enough about the subject to answer that question, Senator.

Senator MILLIKIN. I wish you would get us an opinion on that, because it is not something to be disposed of off the cuff.

Mr. BROWN. That is why I don't want to try to answer it.

Senator MILLIKIN. We have a lot of States in this country that have a great interest in the oil business, and I am sure that anyone that knows anything about the oil business will pounce on that subparagraph at once to find out what are the implications.

So will you get us some kind of a statement on the relation of this paragraph to our oil-conservation measures in this country, from the standpoint of restriction on imports and exports?

Mr. BROWN. I will do my best.

Senator MILLIKIN. Now, who decides whether the conditions of that subparagraph have been met?

Mr. BROWN. The parties to the agreement, if a decision is required.

Senator MILLIKIN. Would you mind explaining again what, to your mind, the implications of that subparagraph are?

Mr. BROWN. I don't think I have anything to add to what I have said, Senator. This is an exception, a complete exception, from all of the provisions of the agreement. It states as a principle that if a country wants to conserve its natural resources and to do so it is willing also to limit its own people in their production or in their consumption, then it is proper and permissible for them also to limit the trade of other people in the product. That is the principle of the thing. How it would be applied in particular cases, and particularly in the technical and complicated field of oil, I can't say.

Senator MILLIKIN. But if conservation measures were in effect with respect to exhaustible natural resources, and if by their nature they did impose a restriction on domestic production, but did not impose a restriction on consumption, would the article be effective or ineffective?

Mr. BROWN. This says "or."

Senator MILLIKIN. So that if you had a restraint on production, but did not have a restraint on consumption the article would or would not be effective?

Mr. BROWN. I think it would be effective.

Senator MILLIKIN. It would be effective.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Or if you had a restraint on production and a restraint on consumption, then it would be effective also?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I believe it would be in the interests of a sound State Department presentation if we had that related, say, to the oil business.

Mr. BROWN. I do not feel that it is possible to say more at this time than what I have already said. In order to say anything more specific it would be necessary to know the nature of the measures for restriction and their extent, the area which they cover, the products which they cover, the nature of the proposal for the limitation of imports, and other factors.

Senator MILLIKIN. Inviting your attention to I (i) [reading]:

> (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 such domestic industry, and shall not depart from the provisions of this agreement relating to nondiscrimination.

Would you mind explaining that?

Mr. BROWN. That is a limited exception. I can give you an illustration.

In New Zealand, I believe, there is extensive price control. The prices of leather are limited, and the prices of hides also. It happens frequently that the world price of hides may go above the price fixed by the New Zealand Government, which would mean that the effect would be to drain all the hides out of New Zealand and completely deprive the New Zealand leather industry of any raw material for their product. The leather industry is also limited in its price, so that it could not bid up to meet that competition.

In such a case, which would be purely a limited case, a restriction on the exports of the hides would not be prohibited.

Senator MILLIKIN. The domestic price by law is held below the world price?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And under the proviso they can set up restrictions on exports if those restrictions do not operate to increase the exports of or the protection afforded to such domestic industry.

I will assume the full blame for still not understanding that situation. Could you put it in another groove?

Mr. BROWN. I didn't comment on that particular part of it.

Senator MILLIKIN. Well, supposing you do that?

Mr. BROWN. The next point is this. They could not put a complete embargo, for example, on the export of the hides, which would have the effect of giving their industry a degree of monopoly in the world market for leather that they would not otherwise have; but they could limit them to a representative period or a normal export quantity. The point of this is that they are able to prevent having their raw materials sucked out from under them completely. That is the purpose of it.

Senator MILLIKIN. Now, the point is to assure essential quantities of, in the case of New Zealand, let us say, hides. That is the point.

Well, how do you relate an export policy to that objective, which would have the effect of diminishing the supply of hides?

Mr. BROWN. No, sir; it would have the effect of increasing the supply of hides to the domestic leather producing industry.

Senator MILLIKIN. I do not quite follow that.

Mr. BROWN. Because the hides would not go out of the country. They are produced in New Zealand.

Senator MILLIKIN. I am talking about an exporting policy that would take them out of the country.

Mr. BROWN. Then I am afraid I do not understand the question.

Senator MILLIKIN. Well, I do not understand you either. Let us read this paragraph again. I am frank to confess, and I will take the blame entirely upon myself, that I do not understand the paragraph, and I do not understand your explanation.

I would like for you to be patient with me, so that I do understand it.

Mr. BROWN. I am sorry I have been obscure.

Senator MILLIKIN. This subparagraph refers to [reading]—

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.

All right. Now, that far, we are saying that you can impose restrictions on exports of a product which you wish to keep in the country in the interests of a domestic producing industry. Correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And where the price there is less than the world price.

Mr. BROWN. As a result of governmental action.

Senator MILLIKIN. Yes. Now, why that factor? Why the factor of a price less than the world price? What has that to do with it?

Mr. BROWN. That is because the Government, as a matter of policy, in keeping down the cost of living all through the country, has practically universal price control.

Senator MILLIKIN. And it has a price less than the world price.

Mr. BROWN. And, therefore, the normal effect of that would be that the world price would suck all the hides out into the world market.

Senator MILLIKIN. So, under those circumstances, you say you can place an export restriction on that particular commodity?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now, then, you go on, and you say [reading]:

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 nondiscriminiation.

Well, if you put on the restriction, why would it increase the exports? The purpose of putting the restriction on is not to increase the exports.

Mr. BROWN. I think I see where I have not been clear. It is the exports of the finished product that should not be increased by giving it a monopoly of the supply of the raw material.

Senator MILLIKIN. I see. That clears me up a little bit [reading]:

Provided that such restrictions shall not operate to increase the exports—

in the case we have been talking about, of the finished article.

Mr. BROWN. Yes, sir.

Senator MILLIKIN (reading):

or the protection afforded to such domestic industry.

How can it avoid increasing the protection to the domestic industry, unless you are referring to the finished product industry? Is that what you are referring to?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I suggest that that paragraph could have been clarified a little bit.

Mr. BROWN. I am sure that is right, Senator.

Senator MILLIKIN. Let us now consider II (a). [Reading:]

(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.

What is your authority for embodying that principle of this agreement? The Atlantic Charter?

Mr. BROWN. Of course, it is in the Atlantic Charter. I wouldn't quote that as an authority.

Senator MILLIKIN. The Atlantic Charter has not been implemented, unless this implements it.

Mr. BROWN. I was going to say, Senator, as to the statement of the principle itself, that certainly one would not want to adopt as a matter of policy that one would take governmental action which would go counter to that principle. I can't offhand point out a specific statutory provision that covers this section. I do know that we have for a long time been engaged in international allocation of products in short supply. And what this simply says is that, if you take a measure which limits the trade in a product, no one can criticize you under this agreement if you are doing it in order to effect an equitable distribution of products in short supply. For example, no one can complain that they are being discriminated against by the United States if the United States limits its exports of some product in short supply to a country that wants it very much, as part of a means of distributing that product equitably between the United States and other countries to which it exports it.

This is an exception to the rule that you can't limit exports or imports by saying that under those circumstances if you do nobody can complain.

Senator MILLIKIN. Well, let us assume a case. Let us assume that we have a short supply of some important product in this country. And let us assume that, to conserve that supply, we ban completely the export of that commodity. Reading up to the first semicolon, I assume that we have the right to do that. Now comes the qualification. It says [reading]:

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—

it has to be consistent—

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

Would anybody have a claim against us?

Mr. BROWN. My attention has been drawn to the fact that the principle which has just been read—that all contracting parties are entitled to an equitable share—refers to an equitable share of the international supply, not the total supply. And, from that, the conclusion would follow that, if we needed it all ourselves, we would be able to keep it.

Senator MILLIKIN. When does such a product become a part of the international supply?

Mr. BROWN. I am not completely satisfied with that answer, Senator Millikin, and I would like to check it, because that is a new thought to me.

Senator MILLIKIN. We will resume, when we next meet, on that particular subject.

Now, what are the multilateral arrangements which are directed to an equitable international distribution of the products referred to?

Mr. BROWN. Tin, for example, is under international allocation, and earlier during the war almost all raw materials were allocated by the combined boards.

Senator MILLIKIN. All over the world?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Were those arrangements participated in by all the countries of the world?

Mr. BROWN. No, sir. Initially, those boards were Anglo-American boards. And later, after the war ceased, other countries who were interested in the supply and distribution became parties.

Senator MILLIKIN. So that was related to an equitable supply between those particular contracting parties?

Mr. BROWN. Well, of course, that was in time of war; so none of this would have applied. But, at present, I think some foodstuffs are still under international allocation, and I know tin is. And any agreement as to allocation that is reached would then supersede this.

Senator MILLIKIN. I repeat that the equitable supply concerned an allocation of the equitable supply to these particular nations, not to the whole world.

Mr. BROWN. The present allocations do apply to an equitable supply to all claimants.

Senator MILLIKIN. In tin specifically?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What other instances can you think of?

Mr. BROWN. Up until very recently, fats and oils were under international allocation, I think, and grains and a number of other food products.

Senator MILLIKIN. Are you sure that the benefits of those agreements are open to the whole world?

Mr. BROWN. Yes, sir. That is how it is decided how people get tin.

Senator MILLIKIN. Well, I am driving solely to the point: Are the benefits of those agreements to which you refer available only to the parties to those agreements? Or are they also contracting equitable shares for the rest of the world, including nations which are not parties to those agreements?

Mr. BROWN. Not all nations of the world are members of the allocating group.

Senator MILLIKIN. I understand. But do all nations of the world have the benefit?

Mr. BROWN. They allocate the whole world's supply of tin.

Senator MILLIKIN. The whole world's supply?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That is a little bit swollen; is it not?

Mr. BROWN. It has been done for a long time.

Senator MILLIKIN. Well, I guess we have done many swollen things for a long time. When a group of contracting parties sit around and make allocations of an international commodity for the benefit of those who did not join the agreement——

Mr. BROWN. Any who want to come in, I think, can, Senator. It is open to everybody.

Senator MILLIKIN. Oh, yes. Everyone has a right to enter or not to enter a contract. But, if he does not enter, the contracting parties, under your theory, have allocated him his supply. I am not referring to these contracting parties. I am referring to the parties to those commodity agreements to which you have been referring.

Is there a principle basic to this general agreement that each contracting party is entitled to an equitable share of the international supply of products?

Mr. BROWN. There is a principle basic to this agreement that the parties shall be given nondiscriminatory treatment. And it would follow from that that there is a principle that, other things being equal everybody should get a fair crack at the supply or at the market.

Senator MILLIKIN. I suggest to you that what you have stated does not follow. But is it correct that it is contemplated by this general agreement that all parties to it are entitled to an equitable share?

Mr. BROWN. This article is an exception to the rules.

Senator MILLIKIN. Let me illustrate what I am talking about. You can have a nondiscriminatory policy which would exclude completely, because it excludes everyone in the same way. Therefore, it is nondiscriminatory.

Mr. BROWN. Yes, sir. You are correct. I accept the correction.

Senator MILLIKIN. So, what I am driving at, Mr. Brown, is: What is the basic underlying principle of this agreement, so far as rights of the contracting parties are concerned, to an equitable share of international products? That is all I am talking about.

Mr. BROWN. The underlying basic principle of this agreement is that the parties will not impose obstacles to the access of others to their supply, or to their markets, nor will they discriminate between them. That is getting down to the very fundamental thing.

Senator MILLIKIN. Yes.

Mr. BROWN. Now, that is qualified in a great many ways. It must be, because of the needs and policies and practical situations facing the different countries. And we have been discussing the different ways in which those principles have been qualified.

Now, this particular paragraph that we have been discussing is an exception. It is not a statement of the rule. It says that nobody can invoke the agreement if a country takes measures which comply with this particular test. That doesn't mean that, if the country does not comply with this particular test, it might not also come in under some other section of the agreement.

Senator MILLIKIN. Who determines whether that equitable sharing of the international supply of such products has been complied with.

Mr. BROWN. In the last analysis, if the agreement requires interpretation, the parties affected having agreed on it, it would go to the group for judgment.

Senator MILLIKIN. It would go to the contracting parties for judgment.

Mr. BROWN. Yes.

Senator MILLIKIN. Section II (b) reads:

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

Is that limited to the transition period or any particular period?

Mr. BROWN. That was an immediate postwar situation. I don't think that has very general application now.

Senator MILLIKIN. It seems to me that the language is very broad. I mean, it does not say "shortages subsequent to the war and covered by the war and enduring during a transitory period." It says:

essential to control of prices by a contracting party undergoing shortages subsequent to the war.

That means at any time subsequent to the war and, so far as that particular language is concerned, for any reason subsequent to the war.

Mr. BROWN. The last paragraph of all puts a time limit on the application of all of these exceptions under paragraph II.

Senator MILLIKIN. Subparagraph (c) reads:

> (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—

Who decides whether the surplus is a temporary surplus in the last analysis?

Mr. BROWN. The same answer as I gave you before.

Senator MILLIKIN. The contracting parties?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Then it has a reference to something which would be uneconomic to maintain in normal conditions. Who decides whether that something would be "uneconomic"?

Mr. BROWN. The contracting parties are the body which would interpret this agreement, if interpretation should become necessary.

Senator MILLIKIN. Passing down to the following language [reading]:

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.

Prior to January 1, 1951. I assume that your answer would be the same so far as the ultimate decision is concerned, as to whether conditions giving rise to that which is referred to have ceased.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Then the proviso goes on to say 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.

That obviously places the ultimate decision very squarely up to the contracting parties.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Do you intend to bring back any part of this article to the Congress, either for new legislation or for approval?

Mr. BROWN. No, sir.

Senator MILLIKIN. What are your derivations for this article?

Mr. BROWN. Well, subparagraphs I (a), (b), (c), (d), (e), and (f) have been in all our trade agreements. They are standard.

Senator MILLIKIN. Which subparagraphs have not been?

Mr. BROWN. Subparagraphs (g), (h), and (i) of paragraph I and paragraph II.

Senator MILLIKIN. Subparagraphs (g), (h) and (i) of I and all of paragraph II?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. The answer which you have already given, I assume, carries with it your own opinion that the novelty of these measures and their content do not, under the authority that you claim, require that they be referred to Congress for approval.

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. Article XXI is entitled "Security Exceptions." [Reading:]

> Nothing in this Agreement shall be construed
>
> (a) to require any contracting party to furnish an yinformation 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.

Is this article the same as article 99 of the Charter?

Mr. BROWN. No, sir. The material which is in this article is in article 99, but not all of the material of article 99 is in this article.

Senator MILLIKIN. What are the features of article 99 of the Charter which are not in this article XXI of the general agreement?

Mr. BROWN. Paragraph 2 is not. Paragraph 1 (d) is not. And paragraph 1 (c) is different.

Senator MILLIKIN. What are the provisions of article 99 of the Charter which are different from the provisions of article XXI of the general agreement?

Mr. BROWN. Article XXI deals only with the matter of security, exceptions justified by the need for preserving national security. Article 99 deals with other subjects as well. It is entitled "General Exceptions." So that the subject matter of the two articles is different.

Senator MILLIKIN. And therefore in your view of it there was no significance to the omission?

Mr. BROWN. No, sir.

Senator MILLIKIN. Now, inviting your attention to (b) (iii) [reading]:

taken in time of war or other emergency in international relations—

that refers to withholding information, does not it?

Mr. BROWN. No, sir.

Senator MILLIKIN. Oh, that is absolute?

Mr. BROWN. The right to withhold information is an absolute right given to the country in its own unilateral decision.

Senator MILLIKIN. Now, I notice the word, in subparagraph (iii), "emergency." How is that defined?

Mr. BROWN. It is not defined.

Senator MILLIKIN. Who would define it?

Mr. BROWN. If there should be action taken by one of the parties to the agreement, and if there should be complaint about that action, and if it should be justified by that party under the claim that there was an emergency in international relations, and it was stated that that was the authority claimed to take the action, and there was disagreement about it, the contracting parties would interpret the agreement in this respect as in others.

Senator MILLIKIN. From what you have said, it follows that they would confirm the claim of emergency, or they would have the power to deny the claim of emergency.

Mr. BROWN. Yes, sir.

Senator TAFT. What is an "emergency in international relations"? What is it intended to mean?

Mr. BROWN. It is very difficult to define in advance what an emergency would be. It is much easier to look at the situation and see if there is one.

Senator TAFT. Well, does an emergency in international relations mean a dispute between two nations?

Mr. BROWN. No, sir; I think it would be a very serious situation; for example, breaking off diplomatic relations—that kind of situation.

Senator TAFT. Something that might be in the direction of war, you mean. That is the general idea?

Mr. BROWN. Yes, sir. In some earlier drafts there were such phrases as "imminent threat of war," and that kind of thing. That was felt to be a little too restrictive, and it was felt that it would not give quite enough protection to national security; and it was decided to select some phrase of this kind, which has the connotation which you have suggested.

Senator MARTIN. Can you give us an example?

Mr. BROWN. It is very hard to give a specific example.

Senator MILLIKIN. "Imminent threat of war" is a much tighter term, for example, than the word "emergency." The word "emergency" would take you, I suggest, to a far less strained position than would be the case if there was an imminent threat of war. It seems to me that the term is so loose that it can be taken advantage of, and has been taken advantage of, to cover situations which could not truly be called an emergency. But in the end the definition in each case would be made ultimately by the contracting parties. Is that correct?

Mr. BROWN. That is correct.

Senator MILLIKIN. Do you intend to bring any part of that article back to Congress either for approval or for supplemental legislation?

Mr. BROWN. No, sir. You have not asked for the derivation of this, but an exception of this kind has been in all out agreements and treaties.

Senator MILLIKIN. In the exact language?

Mr. BROWN. Not in the exact language.

Senator MILLIKIN. The general purpose?

Mr. BROWN. For example, the reference to the United Nations Charter is new since the formation of the United Nations; and the reference to fissionable materials is new.

Senator MILLIKIN. Now, with reference to subclause (c) [reading]:

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.

Here again the contracting parties as such would have the ultimate decision in the matter.

Mr. BROWN. If any party or group of parties took, shall we say, sanctions against another, as a result of a decision of the United Nations, they would not be subject to any criticism under this agreement for doing so.

Senator MILLIKIN. Yes, but the question as to whether a party was justly entitled to take advantage of this privilege if question arose would come to the contracting parties ultimately for decision, would it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Is there not the danger there of this lesser group bringing itself into conflict with a decision which the United Nations might take?

Mr. BROWN. I don't think so, sir.

Senator MILLIKIN. It is possible, is it not?

Mr. BROWN. I find it difficult to conceive.

Senator MILLIKIN. The judgment of the contracting parties concerns obligations under the United Nations Charter, and that is also the function of the United Nations organization. Do you really consider it difficult to conceive of a conflict in viewpoint between those two agencies?

Mr. BROWN. I find it difficult to conceive of this body—I think you put it "a lesser body"—coming in conflict with the United Nations as a result of this agreement.

Senator MILLIKIN. It would be possible, would it not?

Mr. BROWN. I find it very difficult to conceive. It would be conceivable.

Senator MILLIKIN. Do you find it "possible to conceive of the possibility?"

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Shall we proceed to article XXII, entitled "Consultation?" [Reading:]

Each contracting party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as may be made by any other contracting party with respect to the operation of customs regulations and formalities, antidumping and contervailing 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.

Is that provision similar to article 41 of the charter?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Is it identical?

Mr. BROWN. Practically identical. This is a standard consultative provision which has been in all our trade agreements and requires no legislative action.

Senator MILLIKIN. Article XXIII is entitled "Nullification or Impairment." [Reading:]

1. If any contracting party should consider that any benefit accruing to it directly or directly under this agreement is being nullified or impaired or that the attainment of any objective of the agreement is being impeded as a 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 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 intergovernmental 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.

What is the relationship of article XXIII, which I have just read to articles 92, 93, 94, 95, and 96 of the charter?

Mr. BROWN. The substance of article XXIII is in article 93 of the charter. That is to say, the basic idea that if a party feels that if some other party is frustrating and nullifying the effects of its commitments under the agreement, it can come to the contracting parties and register a complaint and get a decision.

Now, that idea is in the charter. But the charter, of course, is totally different, because there you have an executive board and an appeal to the International Court, and you have a quite different set-up. We did put these two in parallel columns, because the basic idea that you come in and have a place where you could go with complaint and get a decision, is the same.

Senator MILLIKIN. Was thought given to the inclusion of a provision in GATT for reference of questions to the International Court of Justice?

Mr. BROWN. I don't think so.

Senator MILLIKIN. Do you know why not?

Mr. BROWN. I don't really know the reason. It did not occur to me. It may have occurred to others.

Senator MILLIKIN. I invite your attention to the provision of paragraph 1, that there can be an escape under the terms mentioned in a situation whether or not the facts conflict with the provisions of this agreement.

In other words, does that not open the whole thing up to anyone who wants to open it if, after having made his bargain, he decides that he made a bad deal?

Mr. BROWN. It would open it up in this sense; that if a party, having made the bargain just finds that the circumstances are such that the agreement is no longer meaningful, and its benefits are being nullified, or impaired in a substantial way, it can come in and ask to be released from the agreement.

Senator MILLIKIN. Well, does it not go further? What I am probing at, Mr. Brown, is the matter of whether it does not go further and permit an escape from the agreement regardless of whether there has been any violation of the agreement, and for any reason which the interested party might consider sufficient.

My reason for asking the question comes out of the language in subclause (b) of 1, to wit, "whether or not it conflicts with the provisions of this agreement."

Mr. BROWN. Yes, sir. The release could not be obtained unilaterally by the party concerned. I can't give you an illustrative case where this provision would be operative.

Senator MILLIKIN. Let me put it to you this way: Any contracting party, feeling that it has made a bad deal, whether or not its complaint goes to violation of this agreement, could take steps to escape from the agreement. Correct?

Mr. BROWN. Yes, sir. And if it did, then the others would be correspondingly released from their obligations to that party.

Senator MILLIKIN. Now, must the contracting parties give an escape under those circumstances?

Mr. BROWN. No, sir.

Senator MILLIKIN. Or do the contracting parties judge whether an escape shall be given?

Mr. BROWN. The latter, sir.

Senator MILLIKIN. Yes.

Senator TAFT. May I ask: How do the contracting parties act? By majority vote of the countries involved?

Senator MILLIKIN. Yes.

Senator TAFT. Are the contracting parties a recognized body somewhere?

Mr. BROWN. That is a convenient way of distinguishing between a reference to the parties to this agreement acting individually, and when they get together and make a group decision.

Senator TAFT. Would they act by majority vote?

Mr. BROWN. In most cases, Senator. But if, for example, a general waiver of some of the general provisions of the agreement were given, it would have to be by two-thirds vote. In most cases, it is majority vote.

Senator TAFT. When you say "the contracting parties may consult with" contracting parties, in one case, the term is used apparently as a group, and in the other case as individual members. Is that right?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. Mr. Brown, let me invite your attention to paragraph 2 [reading]:

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 recommendation 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 intergovernmental 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.

There is a power there, is there not, that could result in a nullification of the whole agreement?

Mr. BROWN. Yes, sir; if abused.

Senator MILLIKIN. And that power would result from the majority action of 23 nations, in which we have 1 vote?

Mr. BROWN. That is correct.

Excuse me just a second. May I check? Yes; that is correct, sir.

Senator MILLIKIN. Mr. Chairman, unless there are other questions, I believe we have reached a good point to quit for the day.

Senator MCGRATH. Have you anything else, Mr. Brown?

Mr. BROWN. I might say that we do not feel this requires any legislative action, and that there are comparable provisions in our previous trade agreements with respect to the idea of nullification and impairment, though, of course, not with respect to the action of the contracting parties as such.

Senator MILLIKIN. That is a novel feature?

Mr. BROWN. Yes, sir.

Senator MCGRATH. We will stand in recess until 10 o'clock tomorrow morning.

(Whereupon, at 11:55 a. m., the committee recessed, to reconvene at 10 a. m. on Thursday, March 3, 1949.)

EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT

THURSDAY, MARCH 3, 1949

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to adjournment, in room 312, Senate Office Building, Senator J. Howard McGrath presiding.

Present: Senators McGrath, Johnson, Millikin, Taft, Butler, Martin, and Williams.

Senator MCGRATH. The committee will come to order.

Senator Millikin.

Senator MILLIKIN. Mr. Brown, have we put in the correspondence regarding the cooperation of the Monetary Fund? That is in the record, is it not?

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE, WASHINGTON, D. C.—Resumed

Mr. BROWN. No, sir. That has been supplied to the committee for its confidential use, because of the restriction,which I am trying to get removed.

Senator MILLIKIN. Yes; I remember now.

I believe that earlier in the hearing I requested a summary of the licensing and exchange-control requirements, and the status of private trading as to European countries and certain Near East and African areas. Has that been supplied?

Mr. CORSE (Carl D. Corse, Associate Chief, Division of Commercial Policy, Department of State). I believe the request was to bring up to date a tabulation that had been put into the record of a previous hearing.

Senator MILLIKIN. Yes.

Mr. CORSE. That has been done and the revised tabulation is in the printed record.

Senator MILLIKIN. Thank you very much.

We were working on paragraph 2 of article XXIII at the close of the session yesterday, Mr. Brown. You also stated at the close of the session that there is nothing in article XXIII which you intended to bring back to Congress, either for approval or for supplemental legislation. Is that correct?

Mr. BROWN. That is correct, sir.

Could I add one comment to what I said yesterday?

Senator MILLIKIN. Yes.

Mr. BROWN. In each case you have asked us for precedents.

Senator MILLIKIN. Yes.

Mr. BROWN. In article 12 of the trade agreement with Argentina, effective January 8, 1943, there is a provision very comparable to the provision that we discussed yesterday, to the effect that if a situation exists which does not violate any provision of the agreement, which either party considers has the effect of nullifying or impairing the agreement, there can be consultation with a view to release, or escape.

Senator MILLIKIN. Now, with reference to paragraph 2 of Article XXIII, I invite your attention to the language [reading]:

> 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.

Will you be good enough to advise us of the implications of that language, so far as the United States is concerned?

Mr. BROWN. What the language means is that if, as to one of the contracting parties, we felt, after this agreement had been going on for a year or so, the circumstances of world trade had so completely changed that the concessions that were made and the benefits that were obtained under this agreement for this country had not developed, were not, shall we say, worth the price we had paid for them, we could come to the contracting parties and say, "That is the way we feel about it, and we would like to be authorized to withdraw all or a large part of our concessions, because the bargain has, under circumstances quite different from those that existed at the time of the Agreement, turned out to be," shall we say, "not worth what we paid for it."

And if we had made a case, we would be given a release as we requested it; and the same would be true of any other country that desired to do it.

Senator TAFT. Mr. Brown, it seems to me to be something different from that, as I read it. To me it means that we could say that because of the action of Spain, we will say, we do not propose to be bound by our former promise not to discriminate against Spain, and we propose to discriminate against Spain hereafter. Thereupon, the contracting parties can say: "All right; the circumstances justify that." Thereupon, Spain within 60 days can withdraw from the whole works.

Mr. BROWN. That would be an illustration of the kind of thing.

Senator TAFT. Or vice versa: Somebody might come around and say, "The United States is hoarding dollars so much that we cannot possibly carry out our agreement not to discriminate against the United States." Then this majority releases them from their obligation not to discriminate against us. Thereupon we can withdraw from the whole business within 60 days. Is that not more the idea of it?

Mr. BROWN. Yes, sir. Or if there were a world-wide depression and it hit one country very badly, so that they just felt they could not live up to the commitments in this agreement, because nothing was coming their way at all under it, then, if they could establish that, although they might not want to withdraw wholly from the

agreement, they might get a release, and if any other party didn't like it, they could drop out.

Senator MILLIKIN. Have you finished, Senator?

Senator TAFT. Yes.

Senator MILLIKIN. As a practical matter, if we should take advantage of this article and receive permission to take advantage of it on a wholesale scale, that would end the agreement, would it not?

Mr. BROWN. I think, Senator Millikin, that if we desired to do it on a wholesale scale, we would simply give notice of withdrawal and go out that way.

Senator MILLIKIN. But if we took advantage of this particular article on a wholesale scale, it would have the practical effect of destroying the agreement, would it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And whether or not, under this article, we may take advantage of it, depends upon the consent of the contracting parties?

Mr. BROWN. That is correct, sir. But we, of course, can withdraw without anybody's consent.

Senator TAFT. But if they did this: If some country in Europe came to these people and said, "We want to be released from this agreement not to discriminate against the United States; we will have to discriminate against the United States hereafter," and the contracting parties authorized them to do that, we would have no escape except to withdraw from the whole works. Am I right? We could not stay in at all, unless we were willing to accept that decree of the contracting parties, releasing X country from their obligation not to discriminate.

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. The privilege, of course, is available to all of the contracting parties.

Mr.BROWN. Yes, sir.

Senator MILLIKIN. In all instances, whether the privilege may be exercised depends upon the decision of the contracting parties.

Mr. BROWN. Yes, sir, under this article.

Senator MILLIKIN. Under the article.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. For the record, I comment again that that is a decision in the hands of 23 nations, where we only have one vote.

The precedent which you cited goes to which part of article XXIII?

Mr. BROWN. Would you care to have me read it?

Senator MILLIKIN. I would appreciate it very much.

Mr. BROWN. Article 12 of the agreement with Argentina, effective January 8, 1943, reads as follows:

> If the government of either country should consider that any circumstance or any measure adopted by the other government, even though it does not conflict with the terms of this agreement, has the effect of nullifying or impairing any object of the agreement or of prejudicing an industry or the commerce of that country, such other government shall give sympathetic consideration to such representations or proposals as may be made, with a view to effecting a mutually satisfactory adjustment of the matter. If no agreement is reached with respect to such representations or proposals, the government making them shall be free to suspend or terminate this agreement in whole or in part on 30 days' written notice.

Senator MILLIKIN. The decision in the matter, though, is not referred to any international body. It rests on a unilateral determination to escape.

Mr. BROWN. Yes, sir; as would our decision to withdraw in this case.

Senator MILLIKIN. Is there any precedent for an article similar to this one in any of our trade agreements, or in any of our treaties or conventions or arrangements of any kind with any foreign country, for yielding the decision, as to whether a right of this kind may be exercised, to an international body, where we are outnumbered in voting power?

Mr. BROWN. I can think of some instances, but I would have to get them checked.

Senator MILLIKIN. You would have to do what, Mr. Brown?

Mr. BROWN. I would have to check them. But we have not had any previous multilateral trade agreement.

Senator MILLIKIN. And that is what I am speaking of. I am not speaking of ramified subjects where you have had the expressed approval of Congress. You have that in the fund, for example. The fund has been expressly approved by the Congress. I think there are possibly some other instances where there has been an expressed prior approval by Congress.

Mr. Brown, I requested that the State Department furnish a legal memorandum which would show, article by article, whether the authority for making the article rests upon the Reciprocal Trade Agreements Act, or rests upon what have been asserted to be the general powers of the President in the subject matter.

Has such a memorandum been prepared and supplied to the committee?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I have merely skimmed that memorandum, so I am not prepared to discuss its detailed provisions. Is there any case cited in there that would warrant an arrangement made by the President whereby decisions in tariff matters can be made by an international body, where we have but one vote out of a considerably larger number of votes?

Mr. BROWN. No, sir. There are precedents for multilateral executive agreements, in which there are contained administrative provisions and voting provisions.

Senator MILLIKIN. I am familiar, I believe, with those precedents.

Mr. BROWN. You limited your question specifically to the field of a tariff agreement. And the answer is "No, sir."

Senator MILLIKIN. You do not know of any such precedents?

Mr. BROWN. No, sir.

Senator TAFT. May I ask a question?

As I understand it, you contend that the President can make a reciprocal trade agreement under the Reciprocal Trade Agreements Act, and then can authorize a suspension of the obligations of the other party on a vote of 23 nations, of which we are one. Is that correct?

Mr. BROWN. Yes, sir.

Senator TAFT. Is that power based on the general powers of the President, or on the power conferred by the Reciprocal Trade Agreements Act?

Mr. BROWN. On both, Senator.

Senator MILLIKIN. Could you make it on either?

Mr. BROWN. I have disclaimed the legal role, Senator Millikin. And I would like to continue to do so, if I may, please.

Senator TAFT. I understood you, when you said "both," to mean "either."

Senator MILLIKIN. If it is both, I would like to have some delineation of the break-off line between one or the other. Of course, if it is either, that simplifies the situation. Will you see what you can do for us on that?

Senator TAFT. I do not see how you can get much by tacking.

Senator MILLIKIN. I have made considerable search, and I have never found a precedent of the type to which we have been referring. The State Department, in the various developments of this whole theme over the past years, has never furnished a precedent which is exactly analogous. So I continue to want to test my own resea ch diligence by seeing what you can dig up.

Mr. BROWN. Senator Millikin, when you say that you have not found a precedent, I take it you mean a precedent deciding either way.

Senator MILLIKIN. I mean a precedent which holds that under the Reciprocal Trade Agreements Act, and without the prior consent of Congress, the President may make an arrangement for the control of our tariffs where decisions of the type we have been discussing and of other types which we have been discussing all through this agreement can be delegated to an international body, where we only have a minority of the votes.

Now, if you can build up analogy by finding other types of delegation, where that same situation prevails, without the prior consent of Congress, of course, that would be very interesting. But I cannot find that, and you have not produced that. If you think you have produced it, I wish you would bring my attention specifically to those particular precedents. Will you be good enough to do that?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Article XXIV is entitled "Territorial Application—Frontier Traffic—Customs Unions and Free-Trade Areas." [Reading:]

1. The provisions of this Agreement shall apply to the metropolitan customs territories of the contracting parties and to any other customs territories in respect of which this Agreement has been accepted under Article XXVI or is being applied under Article XXXIII or pursuant to the Protocol of Provisional Application. Each such customs territory shall, exclusively for the purposes of the territorial application of this agreement, be treated as though it were a contracting party; Provided that the provisions of this paragraph shall not be construed to create any rights or obligations as between two or more customs territories in respect of which this Agreement has been accepted under Article XXVI or is being applied under Article XXXIII or pursuant to the Protocol of Provisional Application by a single contracting party.

2. For the purposes of this agreement, 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.

3. 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) advantages accorded to the trade with the Free Territory or Trieste by countries contiguous to that territory, provided that such advantages are not in conflict with the treaties of peace arising out of the Second World War.

4. The Contracting Parties recognize the desirability of increasing trade by the development, through voluntary agreements, of closer integration between the

economies of the countries parties to such agreements. They also recognize that the purpose of a customs union or of a free-trade area should be to facilitate trade between the parties and not to raise barriers to the trade of other contracting parties with such parties.

5. Accordingly, the provisions of this Agreement shall not prevent, as between the territories of contracting parties, the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area; Provided, that:

(a) with respect to a customs union, or an interim agreement leading to the formation of a customs union, the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with contracting parties not parties to such union or agreement shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union or the adoption of such interim agreement, as the case may be;

(b) with respect to a free-trade area, or an interim agreement leading to the formation of a free-trade area, the duties and other regulations of commerce maintained in each of the constituent territories and applicable at the formation of such free-trade area or the adoption of such interim agreement to the trade of contracting parties not included in such area or not parties to such agreement shall not be higher or more restrictive than the corresponding duties and other regulations of commerce existing in the same constituent territories prior to the formation of a free-trade area or interim agreement, as the case may be; and

(c) any interim agreement referred to in subparagraphs (a) and (b) shall include a plan and schedule for the formation of such a customs union or of such a free-trade area within a reasonable length of time.

6. If in fulfilling the requirements of subparagraph 5 (a), a contracting party proposes to increase any rate of duty inconsistently with the provisions of Article II, the procedure set forth in Article XXVIII shall apply. In providing for compensatory adjustment, due account shall be taken of the compensation already afforded by the reductions brought about in the corresponding duty of the other constituents of the union.

7. (a) Any contracting party deciding to enter into a customs union or free-trade area, or an interim agreement leading to the formation of such a union or area, shall promptly notify the Contracting Parties, and shall make available to them such information regarding the proposed union or area as will enable them to make such reports and recommendations to contracting parties as they may deem appropriate.

(b) If, after having studied the plan and schedule provided for in an interim agreement referred to in paragraph 5 in consultation with the parties to that agreement and taking due account of the information made available in accordance with the provisions of subparagraph (a), the Contracting Parties find that such agreement is not likely to result in the formation of a customs union or of a free-trade area within the period contemplated by the parties to the agreement, or that such period is not a reasonable one, the Contracting Parties shall make recommendations to the parties to the agreement. The parties shall not maintain or put into force, as the case may be, such agreement if they are not prepared to modify it in accordance with these recommendations.

(c) Any substantial change in the plan or schedule referred to in paragraph 5 (c) shall be communicated to the Contracting Parties, which may request the contracting parties concerned to consult with them if the change seems likely to jeopardize or delay unduly the formation of the customs union or of the fee-trade area.

8. For the purpose of this agreement:

(a) a customs union shall be understood to mean the substitution of a single customs territory for two or more customs territories so that

(i) duties and other restrictive regulations of commerce (except where necessary, those permitted under Article XI, XII, XIII, XIV, XV, and XXII) are eliminated with respect to substantially all the trade between the constituent territories of the union, or at least with respect to substantially all the trade in products originating in such territories, and,

(ii) subject to the provisions of paragraph 9, substantially the same duties 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;

(b) a free-trade area shall be understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV, and XXII) are eliminated on substantially all the trade between the constituent territories in products originating in such territories.

9. The preferences referred to in paragraph 2 of Article I shall not be affected by the formation of a customs union or of a free-trade area, but may be eliminated or adjusted by means of negotiations with contracting parties affected. This procedure of negotiations with affected contracting parties shall, in particular, apply to the elimination of preferences required to conform with the provisions of paragraph 8 (a) (i) and paragraph 8 (b).

10. The Contracting Parties may by a two-thirds majority approve proposals which do not fully comply with the requirements of paragraphs 5 to 9 inclusive, provided that such proposals lead to the formation of customs union, or a free-trade area in the sense of this Article.

11. 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 aggangements with respect to the trade between them, pending the establishment of their mutual trade relations on a definitive basis.

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

The interpretative notes:

Paragraph 5:

It is understood that the provisions of Article I would require that, when a product which has been imported into the territory of a member of a customs union or free-trade area at a preferential rate of duty is reexported to the territory of another member of such union or area, the latter member should collect a duty equal to the difference between the duty already paid and the most-favored-nation rate.

Paragraph 11:

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.

Mr. Brown, will you be good enough to give us a general explanation of the article?

Mr. BROWN. This article covers four general subjects. The first is the technical subject of exactly what territory does the agreement apply to? There is a technical definition of the fact which is similar to the technical definitions that we have always had to have in previous agreements, simply to fix the geographical area you are dealing with.

Secondly, it deals with the question of customs unions. A customs union, of course, involves, by definition, a complete preference between two countries, by one country for the other member of the union. Therefore it would, unless there is some provision in the agreement permitting it, run afoul of article I of the agreement.

In our previous trade agreements, we have had provisions exempting customs unions, because it is generally accepted that a customs union is a desirable thing. It creates a larger trading area. It has always been regarded as a healthy development and a desirable one. There is a definition in here of a customs union, which simply endeavors to establish that when two countries form a customs union and merge their tariffs around the periphery of the new area, the level of the new tariff will be approximately an average level and will not result in an increase of tariff rates around the new area.

In individual cases where one of two countries may have had a high rate, and the other a low rate, the new customs union rate may involve an increase from the level existing in one country, and a decrease from the level existing in the other.

It is also recognized in this article that a customs union is a complicated thing which takes considerable time to develop, and it may not be possible for two countries that wish to form a customs union, even with the best will in the world, to do it all at once.

The reference to an interim agreement leading to a customs union in this article, contemplates the situation where two countries may decide to form a customs union and lay out the plan of doing it by stages; that is, "This year we will make these modifications, next year we will take these further steps, and in 3 years we will have the complete picture."

If you have a bona fide plan of that kind, certainly that would not be objectionable. It is therefore permitted under this agreement to form a customs union by stages, provided that you have clear and definite evidence that that is the intention and a specific program for accomplishing it.

That is a new point in this agreement that has not been in our previous agreements.

One other new point which is in this agreement is that the formation of a customs union traditionally has involved two elements; first, substantially free trade between the countries involved, and, secondly, the same level of tariffs around the periphery.

It is sometimes very difficult to merge two customs tariffs, particularly if there is a disparity in the size of the countries involved. So it is recognized in this agreement that it would be consistent with the thought of a customs union, with the principle and purpose of a customs union, to have two countries agree to form a modified type of customs union, in which they will meet the first test—of having substantially no trade barriers between the two constituent countries—but each of them may retain the same level of tariffs vis-à-vis the outside world that it had before.

Senator MILLIKIN. If I may interrupt, as distinguished from what?

Mr. BROWN. From creating an average rate around the periphery.

Senator MILLIKIN. An average?

Mr. BROWN. Yes, sir.

You would prevent seepage by some sort of certificate-of-origin requirement at the border, but there would be no tariff duties between the two countries. Again, the principle of the interim agreement would apply in that case.

The third point which is covered in this article is that you had here for the first time in this kind of agreement the unusual situation of a large individual area unscrambling itself into two. You had India dividing into two. They would probably have to do some things in the course of working out their arrangements which might be inconsistent with the general principles which the parties wanted to follow. That is the point of paragraph 11, and the reference to India and Parkistan.

The fourth point which is mentioned in this article is the one we have already discussed, the general undertaking that in the case of a Federal system parties to the agreement will take such reasonable measures as may be available to them to insure observance of the

provisions of the agreement by their local governments. I have explained how it is contemplated that that would operate.

Senator MILLIKIN. Is this article the same in substance as article 42 of ITO?

Mr. BROWN. The substance of this article is contained in articles 42, 43, and 44 of the ITO. And I am not sure where the paragraph about India and Pakistan appears.

I am advised it is in article 99 of the charter.

Senator MILLIKIN. The language is identical?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Between the articles you have mentioned in ITO and article XXIV of GATT?

Mr. BROWN. Except that paragraph 6 of article XXIV of GATT does not appear in the ITO. That is a reference to the schedules of customs rates included in the GATT.

Senator MILLIKIN. I notice you use the phrase "customs territory." Are there any instances where, except in the case of customs unions or free-trade areas, the customs area of a nation does not coincide with the official boundaries of a nation?

Mr. BROWN. Yes; Hawaii is in our own customs territory, as are the Virgin Islands.

Senator MILLIKIN. Are there any others?

Mr. BROWN. Yes; I think some of the little islands around Australia are in their customs territory.

Senator MILLIKIN. I was curious as to why we speak of a customs territory rather than the territory of a nation.

Mr. BROWN. Puerto Rico is within our customs territory. It is very interesting to be in the United States when you are still 2,500 miles away from it.

Senator MILLIKIN. Yes.

Well, going back to article XXIV, paragraph 3 [reading]:

> 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) advantages accorded to the trade with the free territory of Trieste by countries contiguous to that territory, provided that such advantages are not in conflict with the Treaties of Peace arising out of the Second World War.

What is, generally speaking, the situation at Trieste?

Mr. BROWN. I do not know the answer to that question. I am sorry. If you like, I could look that up for you. I think, in my analysis of the article, I should have broken it down into five points, because paragraph 3 is the customary frontier traffic provision which has appeared in almost all our trade agreements.

Senator MILLIKIN. No; I would not ask you to look it up. I have a rough notion, which I am sure the facts would bear out, that there were certain advantageous trade concessions made to Trieste in order to build it up as a free territory. But I do not regard it as important enough to warrant any research.

Now, with reference to the term "an interim agreement," is that limited to the type of agreement where you are trying to build up something by stages, as you explained a while ago?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That term is to take care of situations of that kind, and it has no other implication?

Mr. BROWN. No, sir.

Senator MILLIKIN. With reference to paragraph 5, subparagraph (a) reads:

> with respect to a customs union, or an interim agreement leading to the formation of a customs union, the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with contracting parties not parties to such union or agreement, shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union or the adoption of such interim agreement, as the case may be.

Going to subclause (b) of paragraph 5:

> With respect to a free-trade area, or an interim agreement leading to the formation of a free-trade area, the duties and other regulations of commerce maintained in each of the constituent territories and appplicable at the formation of such free-trade area, or the adoption of such interim agreement to the trade of contracting parties not included in such area, or not parties to such agreement shall not be higher or more restrictive than the corresponding duties and other regulations of commerce existing in the same constituent territories prior to the formation of the free-trade area, or interim agreement, as the case may be; and
>
> (c) any interim agreement referred to in subparagraphs (a) and (b) shall include a plan and schedule for the formation of such a customs union or of such a free-trade area within a reasonable length of time.

What customs unions do we have at the present time?

Mr. BROWN. The customs union between Belgium, Holland, and Luxembourg.

Senator MILLIKIN. Is that in effect at the present time?

Mr. BROWN. Not fully, but substantially. The new tariff rates are almost all in effect. There are some parts dealing with the trade relations between the two countries themselves which have not been yet put fully into effect.

Senator MILLIKIN. Is it in the nature of an intreim agreement?

Mr. BROWN. No, sir. That is a definite customs union.

Senator MILLIKIN. But it has not been fully executed?

Mr. BROWN. No, sir. It predated this agreement.

Senator MILLIKIN. But is it subject to further action on the executory part of it?

Mr. BROWN. Yes, sir. Then there is also a customs union between Syria and Lebanon.

Senator MILLIKIN. Is that in effect?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Fully in effect?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Are Syria and Lebanon contracting parties under this general agreement?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Are Holland, Belgium, and Luxemburg contracting parties under this agreement?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What have the contracting parties done formally as to those two customs unions? Have they been recognized by the contracting parties?

Mr. BROWN. Yes, sir. The negotiations on the tariff concessions which took place at Geneva were negotiations with respect to the new customs union tariff. And similarly in the case of Syria and Lebanon.

Senator MILLIKIN. Have both of those unions been formally approved by the contracting parties?

Mr. BROWN. There is no document or resolution anywhere saying, "The contracting parties hereby formally approve." But they have de facto done so by dealing with them as a unit.

Senator MILLIKIN. Is there a contemplated customs union between France and Italy?

Mr. BROWN. Yes, sir. That would be of the free-trade-area type.

Senator MILLIKIN. Of the free-trade-area type?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. My memory of your definition of a free-trade area is where you incorporate into that area two or more customs unions. Is that correct?

Mr. BROWN. No, sir. The free-trade area is simply a customs union in which each of the parties maintains the same tariff that it had before vis-à-vis the outside world, rather than forming an average tariff around the whole periphery of the two countries.

Senator MILLIKIN. Well, the definition under paragraph 8 (b) is [reading]:

A free-trade area shall be understood to mean a group of two or more customs territories——

Mr. BROWN. Customs territories; not unions.

Senator MILLIKIN. Not unions. Oh, yes. I am sorry. [Reading:]

customs territories in which the duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV, and XXII) are eliminated on substantially all the trade between the constituent territories in products originating in such territories.

Now, coming back to France and Italy, they are attempting to do what?

Mr. BROWN. As I understand it, they are endeavoring to work out what would, under this agreement, be called a free-trade area.

Senator MILLIKIN. And what would be the point of distinction between what they are trying to do and what Belgium, Luxemburg, and the Netherlands have done?

Mr. BROWN. They do not plan, as I understand it, to merge their two tariff systems and have the same level of tariffs for both France and Italy, but intend to maintain the tariffs which they have now. As between Belgium, Luxemburg, and Holland, there is one level of tariff around the periphery of the three countries.

Senator MILLIKIN. Is this not, in end effect, whether via a customs union or via a free-trade area, the institution of a new area where preferences exist?

Mr. BROWN. This is a 100-percent preference.

Senator MILLIKIN. I assume it is felt that the advantages outweigh the disadvantages.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Give us an example, now. Let us take the Belgian-Luxemburg-Netherlands customs union. Give us an example of what happens to an export from this country entering that union, in terms of rates.

Let me make it a little more specific: Would our exporter deal with each of the separate countries, or would he deal with some sort of a governmental organization for the union?

Mr. BROWN. He would not deal with either. He would simply find that there was a tariff rate on his product which applied whether it went into Belgium or Holland or Luxemburg.

Senator MILLIKIN. And would that be proclaimed by each of the constituent countries? Or does it follow from the proclamation of the officials or management of the union?

Mr. BROWN. I am not positive, but I think it is proclaimed by each of the constituent countries.

Senator MILLIKIN. So that an exporter, an American exporter, would not have to go through some governmental agency of the customs union in order to do business with the separate countries making up the union.

Mr. BROWN. So far as the actual formalities and process of entering his goods are concerned, it would be identical to what it is now.

Senator MILLIKIN. It would be identical.

Mr. BROWN. The rate might be different, but he would go to the same customs office at the same port, or the same station, or whatever it might be, exactly as he did before.

Senator MILLIKIN. But the rate would be higher as between the United States and Belgium, we will say, or as between the United States and Holland, or as between the United States and Luxemburg, than the rate would be on the same commodity as between those three countries.

Mr. BROWN. As between the three countries, there would not be any duty.

Senator MILLIKIN. So that it would cost us more to get into those countries than it would cost either of those countries to get into the other, or any two of the others.

Mr. BROWN. Unless the item was on the free list, that would be correct, sir.

Senator MILLIKIN. You mean listed on the free list so far as what?

Mr. BROWN. So far as the outside world was concerned.

Senator MILLIKIN. So that if there was a tariff at the institution of the customs union in Luxemburg, Netherlands, and Belgium, a tariff on a given commodity, we would have to surmount that tariff in exporting to any of those countries. They, in turn, would not have a tariff as between themselves on the same commodity.

Mr. BROWN. That is correct.

Senator MILLIKIN. The same thing would happen in the case of the Syria-Lebanon union?

Mr. BROWN. That would happen in the case of any customs union or any free-trade area.

Senator MILLIKIN. The same, therefore, as to Italy and France?

Mr. BROWN. Yes, wir.

Senator MILLIKIN. What are the arguments that support the contention that the advantages outweigh the disadvantages, so far as a preference of that kind is concerned?

Mr. BROWN. I think the argument is basically that if you have a large area in which trade moves around freely, that area as a whole develops more rapidly and provides a better market and more goods for trade than if you have a series of little bits of compartments.

Senator MILLIKIN. I remember some testimony that we had on the relation of the general agreement to the Charter, and I recall something that one of the gentlemen from the State Department said, as

to what would happen if we could not "reduce," or he may have said "eliminate," preferences. I will not attempt to quote him exactly, but the end point was that the whole plan that we had in mind for freeing trade would collapse. I am curious how we maintain that doctrine, if we still maintain it, and at the same time enhance preferences.

Mr. BROWN. Your argument is completely logically correct, that a customs union is 100 percent preference. But a customs union is not subject to abuse in the way that a system of individual preferences is. If there were no limitation the granting of preferences, any country could pick out any other country it wanted, to give preferred treatment for any kind of reason, the whim of the moment, political exigencies of the moment, and so on. It could pick out particular industries to which to give preferences. It could use individual preferences to blackball or destroy a particular line of exports to that country. This is a very flexible instrument for discrimination and for injury to the trade of other countries.

On the other hand, if two countries go into a customs union, that is a decision which is one of considerable importance for the two countries. It is one that will not be lightly entered into. Because inevitably, in any customs union, the industry in each country is going to be subjected to greater competition from the industry in the other country than was the case before. So that in the nature of the case, countries do not enter into a customs union unless there is a genuine over-all economic advantage to those two countries in terms of developing a higher degree of prosperity and economic stability in that area, with consequent advantage rather than disadvantage to international trade generally.

Senator MILLIKIN. We cannot use the word "nationalism." I do not know what an equivalent term would be for the territory included in the customs union. Would there not be a tendency for a customs union to enhance the over-all nationalism of the countries within the customs union? Let us call it "merged nationalism," in the absence of a better term.

Mr. BROWN. I don't know that I am qualified to have a judgment on that. I would say off-hand it would work the other way; because you dilute the nationalisms which you have in the first place.

Senator MILLIKIN. I am suggesting that you might simply be enhancing the nationalism, by merging three "nationalisms," and that the effective operation of the union would tend to strengthen the feeling that we are a successful customs union; we have done something that is very efficient for our purposes; we are licking our shortage difficulties; we are providing a freer flow of trade between ourselves, and hence, as we attain more and more self-sufficiency, we become less dependent on the rest of the world. That sort of argument is the argument which is used by those who argue against our becoming more and more self-sufficient.

Mr. BROWN. I don't think that would happen, Senator. I think the forces are almost all working the other way. And I think if you deal with these people, as I have now for quite a number of years, and realize the firmness with which they keep to their point of view as citizens of their particular country, you will conclude that that risk is not a real one.

Senator MILLIKIN. Senator Johnson, we are discussing article XXIV of the general agreement which has to do with customs unions and free trade unions.

Mr. Brown, a while ago you suggested that the elimination of these three barriers within the customs union would subject the members of the customs union to greater competition between themselves, and bring about greater efficiencies, which would have a tendency to lower costs as between themselves.

Mr. BROWN. I think it might.

Senator MILLIKIN. And as the costs are lowered as between themselves, that automatically enhances the preference which they have against the peripheral countries. Would you say that is correct?

Mr. BROWN. No, sir. Not that way. I would say that it would increase their competitive efficiency, if it put down their costs; but I don't think that is a preference in the sense that we have been discussing it here.

Senator MILLIKIN. It has been pointed out, Senator Johnson, that a customs union gives free trade to each of the members of the union, but they retain a tariff against the rest of the world. We are in agreement that that is a form of preference. So I have been proving to see just what the effect of the preference would be.

Earlier in our discussion, Mr. Brown pointed out that by removing the trade barriers within a customs union, the competition between the members of the customs union would be enhanced. I am now suggesting that it would follow from that that they would get more efficient, and that would reduce their costs and would enlarge the preference which has been granted to them by approval of the customs union.

Do you have any further observations on that, Mr. Brown?

Mr. BROWN. Only to add that if the customs union gets more efficient and sells more goods, it will also buy more goods, thereby enhancing the international trade both ways and providing a better market for the goods of other countries.

Senator MILLIKIN. Unless, I suggest, that is countered by the development of a self-sufficiency and a sort of a feeling of—I do not have a very good word for it—merged nationalism

Mr. BROWN. I think economic history demonstrates that that does not happen, and that the more highly industrialized and developed areas provide better markets for other highly efficient and industrialized areas than the less efficient and less developed areas do.

Senator MILLIKIN. I think that is correct, except where you maintain a preference. That is the reason you have been trying to batter down these preferences.

Mr. BROWN. I have given the reasons why we think the individual preference system is an undesirable thing. Those do not apply in the case of a large area of free trade such as the United States

Senator MILLIKIN. Will you tell us again the distinction between a free-trade area and a customs union?

Mr. BROWN. In both, there is free trade between the constituent countries. In the customs union there is the same tariff around the entire periphery of the constituent countries. In the second, each constituent country maintains the same tariff which it had before entering into the free trade area.

Senator MILLIKIN. Do you see any advantage or disadvantage for one as against the other, as far as the United States is concerned?

Mr. BROWN. No, sir.

Senator MILLIKIN. In the one, you have an average tariff. In the other, you have the maintenance of two tariffs, we will say. Theoretically, in terms of a gross quantity of trade with the two countries, in the free-trade area, it would come to an average tariff.

Mr. BROWN. That would be true, given substantial equality in the size and importance of the two countries. I could conceive of cases where it might be better one way than the other, but in general, I should think there would be very little difference between them.

Senator MILLIKIN. It would come down, would it not to particular types of trade with the particular nations making up the free-trade area? I doubt very much whether you can generalize very much as to that.

Mr. BROWN. I think you are right, Senator.

Senator MILLIKIN. Now, inviting your attention to paragraph 6 [reading]:

If in fulfilling the requirements of subparagraph 5 (a), a contracting party proposes to increase any rate of duty inconsistently with the provisions of Article II, the procedure set forth in Article XXVIII shall apply.

That XXVIII has to do with withdrawal; does it not?

Mr. BROWN. Renegotiation of individual items. What that means is that if you have two countries entering into a customs union where they must average the tariff and the lower of the two is brought up to the average, and that rate was in the schedule to the agreement, they could not make the increase without negotiating it out with the interested party.

Senator MILLIKIN. Now, as to the relations of the individual countries making up either a free-trade area, or a customs union, and this general agreement, the contracting parties would continue to deal with the individual countries, would they not? Or do we recognize the customs union or the free-trade area as an entity to be dealt with on a separate basis?

Mr. BROWN. If you were negotiating on tariffs with a customs union, you would deal with it as an entity, because you are dealing with one tariff. The way that worked at Geneva, was that the Dutch, the Belgians and the Luxemburgers had a sort of a joint negotiating team. If you were negotiating on tariffs with a free-trade area, presumably you would negotiate with the particular constituent country that you wanted to negotiate with, and they would do any consultation they felt they needed to do with the other members.

Senator MILLIKIN. Each of the members of the customs union, I assume, would sign for itself?

Mr. BROWN. Yes, sir. That was done.

Senator MILLIKIN. Coming to 7 (b) [reading]:

If, after having studied the plan and schedule provided for in an interim agreement referred to in paragraph 5 in consultation with the parties to that agreement and taking due account of the information made available in accordance with the provisions of subparagraph (a), the Contracting Parties find that such agreement is not likely to result in the formation of a customs union or of a free-trade area within the period contemplated by the parties to the agreement, or that such period is not a reasonable one, the Contracting Parties shall make recommenda-

tions to the parties to the agreement. The parties shall not maintain or put into force, as the case may be, such agreement if they are not prepared to modify it in accordance with these recommendations.

Senator Johnson, Mr. Brown has pointed out that in addition to plunging into a customs union, or into a free-trade area, they may get into an agreement called "an interim agreement," whereby they expect to reach the status of a customs union or a free-trade area by stages. That is what they are talking about here.

And this subparagraph, am I correct, Mr. Brown, deals with the timing of those stages?

Mr. BROWN. No, sir. What this subparagraph is designed to do is to prevent the abuse of the permission to do this by stages. In other words, you can't just go into a phony arrangement and say "These preferences I am putting in tomorrow are intended to lead to a customs union."

The parties to the agreement can have a look at the thing and say, "Let's see the plan you have in mind, and let's see whether that is really justfied or not."

Senator MILLIKIN. The contracting parties then can justify the plan and make decisions with respect to it?

Mr. BROWN. That is correct.

Senator MILLIKIN. That could have the effect, could it not, of blocking what the applicant parties might consider to be ultimately a customs union or a free-trade area?

Mr. BROWN. Yes, sir. It would be more likely to block cases where they were trying to get away with something.

Senator MILLIKIN. I invite your attention to paragraph 10, which reads:

The Contracting Parties may by a two-thirds majority approve proposals which do not fully comply with the requirements of paragraphs 5 to 9 inclusive, provided that such proposals lead to the formation of a customs union or a free-trade area in the sense of this article.

How far could the contracting parties go afield by using that two-third majority in the cases contemplated?

Mr. BROWN. That contemplates the case where your plan may not literally comply with all of the points we have been discussing, but yet is really designed to achieve the objectives contemplated. In such case, if that is clearly demonstrated, approval may be given and a waiver of the strict compliance with the provisions of the paragraph.

Senator MILLIKIN. Could you put it this way: That if the contracting parties conclude that the proposals before them will lead to the formation of a customs union or free-trade area they may, by a two-thirds vote, permit any deviation which they think will be helpful to that result?

Mr. BROWN. I think so; yes, sir.

Senator MILLIKIN. What was in mind so far as the effect of these provisions on the United States is concerned?

Mr. BROWN. We believe that the customs union was a desirable economic measure, and therefore we agreed that anything that led to the formation of a customs union should not give rise to objection under this agreement. We wanted to be sure at the same time that no one used the cloak of a proposed customs union or free-trade area to just establish a lot of individual preferences, which, as I explained, we considered very undesirable. Therefore, our point of view was to

see, first, that the legitimate steps to a customs union could be permitted under the agreement, but that that could not be used as a pretext for abuses. That was the main point that the United States delegation had in mind.

Senator MILLIKIN. We could not, in view of the fact that we have a free-trade area within our boundaries, apply the same principle to our own advantage, could we?

Mr. BROWN. Yes. We might want to form a customs union with some other country.

Senator MILLIKIN. I know. We have a free-trade area within the boundaries of the United States, do we not?

Mr. BROWN. We have a customs union within the boundaries of the United States.

Senator MILLIKIN. We have a customs union within the boundaries of the United States; yes. But our tariff rates are equally applicable to all, are they not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Under the system which we are encouraging here, the members of a customs union or free-trade area may set up preferences for their own benefit which certainly increase the difficulties of our own exporters?

Mr. BROWN. No, sir. I would not agree with that at all. I would say that they were good for our own exporters; very desirable for them.

Senator MILLIKIN. Taking any specific article which is subject to tariffs by the constituent countries of a customs union, how can you say that it is to the advantage of an American exporter of that particular item to have to cross a tariff boundary, when a competing item made within the customs union does not have tariffs, so far as the members of the customs union are concerned?

Mr. BROWN. I took exception to your first statement which was much more general, Senator. You said "American exporters."

Senator MILLIKIN. Well, take an American exporter of widgets. Mr. X, an exporter of widgets, wants to get into the customs union of Belgium, Netherlands, and Luxembourg. The American exporter of widgets comes to the frontiers of the customs union. He has to pay a tariff. The maker of the same product within the customs union can circulate that product all over the territory of the customs union without paying a tariff.

Is that not a disadvantage to the American exporter of widgets?

Mr. BROWN. It might be. On the other hand, there are all kinds of elements that go into a situation of that kind, and you cannot judge it by simply taking the tariff element. It might very well be that the fact that the local widget maker was able to produce more widgets and advertise them, and develop a larger market for the widgets, increased the imports from the United States of widgets to that country. There are all kinds of elements that go into that picture.

Senator MILLIKIN. In the first case, Mr. Brown, when the widget hits the frontier, it meets with a barrier which is not present for the internal manufacture and circulation of widgets, within the customs union. Is that not correct?

Mr. BROWN. That is true. And, of course, before the customs union there wasn't any more tariff against the product of the widget

maker in, shall we say, the half of the union into which our widgets were penetrating.

Senator MILLIKIN. I do not quite follow that. I am assuming that each of the countries making up the customs union has a tariff on widgets.

Mr. BROWN. Yes, sir. The widget maker in Belgium, for example, still enjoys the tariff protection that he enjoyed before. We have no greater obstacle than we had before, so far as he is concerned.

Senator MILLIKIN. Except that now, as within the customs union, the obstacle has been reduced as between the members.

Mr. BROWN. It has been reduced. Yes, sir.

Senator JOHNSON. Senator, I do not want to ask a question that may interrupt your train of thought, or the sequence which you have in mind. But as I understand a customs union, it is nothing more nor less than regional nationalism, or group nationalism—if "nationalism" is the right word; and I use it as it is commonly used, as opposing free trade. Is that not what a customs union is? Just group nationalism? I think "nationalism" would be just as offensive to Mr. Brown whether it was "group" or whether it was "individual" nationalism.

Senator MILLIKIN. I was suggesting to Mr. Brown a while ago that it might have that tendency, but, if I am interpreting him correctly, he did not think so.

Mr. BROWN. No, sir; I do not.

Senator JOHNSON. You do not think that a customs union is group nationalism or regional nationalism?

Mr. BROWN. No, sir; I think a customs union is simply extending an area in which you have substantially free trade, and in which goods can move around; and that it will have the effect of making that area a better market for the goods of other countries, and of making it a better producer of goods needed by other countries.

Senator JOHNSON. Well, if that is true, I would think that nationalism would be a fine thing. If group nationalism is a fine thing, I would think that individual nationalism would be fine, if it would increase the flow of goods.

Senator MILLIKIN. How far along have India and Pakistan gotten in working up some sort of a tariff arrangement between themselves?

Mr. BROWN. I am sorry, sir. I will have to look that up for you.

Senator MILLIKIN. As far as I am concerned, do not go to any undue trouble. It is more a matter of my curiosity than anything.

Mr. BROWN. I think the answer may be the very simple one that they still maintain the same tariff they had before. But I am not sure.

Senator MILLIKIN. Do you intend to bring any part of this article back to Congress, either for approval or for supplemental legislation?

Mr. BROWN. No, sir.

Senator MILLIKIN. I notice that for the first time we have a vote, contemplated in article XXIV, which is more than a majority vote; to wit, a two-thirds vote. Am I correct that that is the first appearance of a vote larger than a simple majority?

Mr. BROWN. Yes, sir. That is correct.

One other case appears in paragraph 5 (a). Paragraph 5 (a) of XXV is the only other case, I think.

Senator MILLIKIN. Now coming back to article XXV, entitled "Joint Action by the Contracting Parties" [reading]:

1. Representatives of the contracting parties shall meet from time to time for the purpose of giving effect to those provisions of this Agreement. Wherever reference is made in this Agreement to the contracting parties acting jointly they are designated as the Contracting Parties.

What are the parties called in the charter?

Mr. BROWN. The members.

Senator MILLIKIN (continues reading):

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

Was that meeting held at that time?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What subsequent meetings have been held?

Mr. BROWN. There has been one subsequent meeting at Geneva, last summer.

Senator MILLIKIN. Was that the September meeting to which we referred?

Mr. BROWN. It ended in September.

Senator MILLIKIN (continues reading):

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

Was that the American position on the general agreement from the beginning?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Did we ever take the position in the negotiation of the articles of agreement that we should have a weighting according to our economic strength?

Mr. BROWN. Not in connection with the general agreement; no, sir.

Senator MILLIKIN. What was the theory for limiting us to one vote?

Mr. BROWN. That we are one country, and that every country should have one vote.

Senator MILLIKIN. Well, how did you meet the obvious argument that this is an economic arrangement in its principal aspects, at least, and that parties entering into an economic arrangement are entitled to a voice equal to their economic weight?

Mr. BROWN. I don't know what all the considerations were that led into that decision. In the Economic and Social Council of the United Nations, which deals with economic matters, we have one vote, just like everybody else. And we have always believed that we should rely on the merits of our case and the ability of our representatives. We are always free to withdraw if we don't like the ultimate result.

It is also true that although the United States has only one ballot, what the United States says has an influence which is commensurate with its importance. Our experience has shown that to be the case.

Senator MILLIKIN. What percentage of the world trade do we have?

Mr. BROWN. I should say something between 20 and 23 percent.

Senator MILLIKIN. Between 20 and 23 percent.

Mr. BROWN. That is, prewar basis.

Senator MILLIKIN. You did not follow the same philosophy in setting up the fund.

Mr. BROWN. No, sir.

Senator MILLIKIN. There we have a 30-percent vote.

Mr. BROWN. Because we made a specific financial contribution of roughly that proportional amount.

Senator MILLIKIN. Here we are making a contribution which certainly has financial aspects, of whatever our percentage of world trade may be. Is that not correct?

Mr. BROWN. I think there is a very considerable difference, in the question of contribution. In one case, you are putting up money. That is a very different thing from agreeing on trade principles.

Senator MILLIKIN. It all depends upon what the trade principles involve. We open up our market here under reduced rates of duty. Other countries open up their markets. We are entitled to sit down and say what is the financial impact of these reductions and preferences and quotas, and so forth and so on.

I do not think you can divorce yourself from the fact that, putting your own percentage on it, we are perhaps the most important nation in the world as far as contribution to this plan is concerned. Yet you give us one vote.

Mr. BROWN. In the first place, giving a tariff concession is not necessarily making a contribution, or giving something to the other country. You are also getting something.

Senator MILLIKIN. We did the same with the fund. We made a contribution, and so did the other members.

Mr. BROWN. But that is a financial contribution, a contribution of money.

Senator MILLIKIN. Well, this all comes down to money

Mr. BROWN. If you put coffee on the free list, that is a benefit to the American consumer as well as being a benefit to the Brazilians.

Senator MILLIKIN. Mr. Brown, theoretically, our contribution to the fund and the contribution of all of the other countries benefited each of those countries. Otherwise, the fund agreement could not have been justified. It all comes down to money.

No further comment?

Mr. BROWN. No, sir.

Senator MILLIKIN. What percentage of contribution do we make toward the expenses of the United Nations?

Mr. BROWN. I think our contribution is something around 30 percent, possibly higher. I am not sure.

Senator MILLIKIN. What is our vote in the United Nations?

Mr. BROWN. One vote.

Senator MILLIKIN. One vote. But we pay 30 percent of the expense.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That has financial aspects.

Mr. BROWN. Minor, compared to the issues involved.

Senator MILLIKIN. Oh, well, that might be entirely true, but that would not go to the principle of contribution.

I will refresh your memory. There have been some very heated disputes in the United Nations as to what our contribution should be. The Russians contending that we should contribute, I think, roughly 50 percent of the expense of the organization.

Mr. BROWN. I am glad their viewpoint has not prevailed.

Senator MILLIKIN. We succeeded in holding it down to what percent? Thirty percent?

Mr. BROWN. That is my recollection, but I am not sure.

Senator MILLIKIN. At any rate, we succeeded in holding it down to a lesser amount. Neither the Russians nor the American delegates considered the item unimportant; although they do have great disputes over unimportant matters.

Mr. BROWN. I didn't say it was unimportant, Senator.

Senator MILLIKIN. I understood you to say it was relatively unimportant.

Mr. BROWN. That is a very different statement.

Senator MILLIKIN. Well, you have nothing to add, on why we wind up with one vote, with 25 or 30 percent of the trade?

Mr. BROWN. No, sir. That has been our position from the beginning.

Senator MILLIKIN. And you stand by it?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Do you have a list of the countries making up this agreement, in summary form? Do they appear at the end?

Mr. BROWN. I can give them to you.

Senator MILLIKIN. Would you mind putting them in at this point? Just call them off.

Mr. BROWN. Australia, Belgium, Brazil, Burma, Canada, Ceylon, Chile, China, Cuba, Czechoslovakia, France, India, Lebanon, Luxembourg, Netherlands, New Zealand, Norway, Pakistan, Southern Rhodesia, Syria, South Africa, the United Kingdom, and the United States.

Senator MILLIKIN. Do we have a vote equal to Lebanon?

Mr. BROWN. Yes, sir; and an influence far greater.

Senator MILLIKIN. It depends on how these countries vote, Mr. Brown.

Mr. BROWN. The influence goes into determining how they vote, Senator.

Senator MILLIKIN. The honey pot of the United States may turn up some very strange votes, as far as the influence of the United States is concerned.

Senator MCGRATH. There are 13 other countries that you expect to join the agreement?

Mr. BROWN. Yes, sir.

Senator MCGRATH. So that the record will be complete, perhaps you could add the names of those 13.

Mr. BROWN. I will be glad to Senator.

(The 13 countries are as follows:)

The 13 countries which will be negotiating at Annecy for the purpose of acceding to the general agreement on tariffs and trade are Colombia, Denmark, Dominican Republic, El Salvador, Finland, Greece, Haiti, Italy, Liberia, Nicaragua, Peru, Sweden, and Uruguay.

Senator MILLIKIN. Maybe there is one smaller than Lebanon.

Mr. BROWN. I think there is.

Senator MCGRATH. We will recess until 10 a. m. tomorrow.

(Whereupon, at 12 noon, the committee recessed to reconvene at 10 a. m. Friday, March 4, 1949.)

EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT

FRIDAY, MARCH 4, 1949

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to adjournment, in room 312, Senate Office Building, Senator J. Howard McGrath presiding.

Present: Senators McGrath (presiding), Millikin, and Martin.

Senator MCGRATH. The committee will come to order.

Senator Millikin?

Senator MILLIKIN. Yesterday we were discussing article XXV.

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE, WASHINGTON, D. C.—Resumed

Mr. BROWN. Senator, may I answer one question you asked me? You asked me whether India and Pakistan had made any particular arrangements with respect to their trade, and I stated I thought they were still continuing under the same customs tariff which prevailed when they were all part of India.

I have checked that, and the statement is correct.

Senator MILLIKIN. Thank you.

Mr. BROWN. There have been some modifications in detail.

Senator MILLIKIN. We were discussing the share of the United States in world trade, and I believe you used the figure of about 25 percent. That accords with one of the annexes to this general agreement, and that, I notice, is limited to total external trade. I assume that that is a fair way to put it; in other words that it includes both imports and exports.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. In terms of total annual income, can you tell us what the share of the United States is, as against the rest of the world?

Mr. BROWN. No, sir; I don't know.

Senator MILLIKIN. Would you guess that it was about half?

Mr. BROWN. I would think that it was very large indeed.

Senator MILLIKIN. We listed the countries which are signatories to this general agreement, and they include Australia, which has one vote; is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Canada, which has one vote?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. New Zealand, which has one vote?

86697—49—pt. 2——34

Mr. BROWN. Yes, sir; each of them has one vote.

Senator MILLIKIN. And Southern Rhodesia has one vote.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Does the United States have relations with any countries comparable to those which those countries have with Great Britain and which also have one vote?

Mr. BROWN. No, sir. The relationship, however, between the countries of the British Commonwealth does not always, or even in most cases, result in voting the same way.

Senator MILLIKIN. Yes. I understand that. But there is an umbilical cord between those countries and the mother country; maybe vestigial, but still there. And they do have a preference system for their benefit.

Mr. BROWN. They do, sir. However, Canada and the United Kingdom at the Geneva Conference, severed the cord insofar as those preferential arrangements are concerned.

Senator MILLIKIN. Happy days. Maybe we can get the others to sever the cord so far as preferential arrangements are concerned—I hope.

I have heard that we are going to negotiate with Lebanon as the principal supplier of some product. Do you know anything about that?

Mr. BROWN. We are not negotiating with Lebanon, sir. We did negotiate with Lebanon at Geneva.

Senator MILLIKIN. On what product did we negotiate with Lebanon, on the basis of principal supplier?

Mr. BROWN. I do not know what all the products were. It was a very limited list. It was difficult to find products of which Lebanon was the principal supplier. There was a particular type of tobacco, which we classified separately from the other tobacco categories, of which Lebanon is the principal supplier; and I do not remember what the other items were, but there were not many.

Senator MILLIKIN. It may be that I have been misinformed completely. It may be that I have been misinformed as to the country. It may be that I have forgotten the exact country which was mentioned. But there has been some complaint that you either have dealt with or that you propose to deal with some very small country as a principal supplier of a very important product; let us say wool. Is there anything of that kind in contemplation?

Mr. BROWN. No, sir. It sometimes happens that a country asks us to consider a concession on a product of which they are a small supplier; and we sometimes list it and do consider it. But, generally speaking, we operate on the basis of the principal supplier.

Senator MILLIKIN. Let met focus it a little more. I have understood that because of the situation in west Germany and the situation in Japan, as a practical matter you are unable to conclude arrangements as to certain principal suppliers, and therefore you either have had negotiations or you propose to have negotiations with some other country of less importance as principal supplier so far as the particular commodity or commodities that you have in mind are concerned, for the purpose of settling a rate which would then be generalized. Is there anything of that kind in your mind?

Mr. BROWN. I don't think so, sir. We considered that question of Germany and Japan very carefully, in getting ready for the Geneva

negotiations; and in a considerable number of cases, as I remember, we did not make any concession, or even a binding, because of the fact which you have mentioned.

Senator MILLIKIN. In other words, you have refrained from doing what I put to you.

Mr. BROWN. Yes, sir. I think there may have been cases where the aggregate of the countries represented supplied a much greater bulk than Germany alone, in which we might have made a concession.

Senator MILLIKIN. I put this to you in very vague terms, because it was put to me also in vague terms.

Mr. BROWN. My answer must be indefinite also.

Senator MILLIKIN. But I have an idea that I may be confronted with some such thing as this on the floor. Would you mind checking up and seeing whether there is any case where you have dealt with a relatively inconsequential nation on the theory that it is a principal supplier? I mean "inconsequential" in terms of the supply of that particular item.

Mr. BROWN. It would be quite a research job to go through every one of the items and find out whether we followed the principal supplier rule literally in each case.

Senator MILLIKIN. I realize that. I do not ask you to do that. I ask this merely with reference to possible impacts on the situation in western Germany or Japan.

Mr. BROWN. It would be very much easier, Senator Millikin, if you could indicate the product you had in mind. Then I could check it.

Senator MILLIKIN. The word "wool" occurs to me.

Mr. BROWN. No. sir. Our negotiations on the subject of wool were primarily with Australia.

Senator MILLIKIN. That, of course, is an important producer.

Mr. BROWN. Yes; an outstanding producer.

I can categorically assure you that the German problem did not come in connection with wool.

Senator MILLIKIN. If I get the thing in sharper form, I will bring it to your attention; and if you get any inspiration, will you let me have it?

Mr. BROWN. Yes. sir. I could give you the answer very quickly in a specific case.

Senator MILLIKIN. I may have a memorandum on it, but I have not been able to find it.

I notice in paragraph 5 (a), we have another instance of a required two-thirds majority vote.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. By such a vote, categories of exceptional circumstances may be defined, and by such a vote there may be other voting requirements so far as the waiver of obligations is concerned, and by such a vote different criteria may be set up. Could you give us an example of what is in mind?

Mr. BROWN. I can't give you an example of a specific case, more than to say, for example, that if a contracting party found a need for a quota, or something of that kind, which had arisen because of some very peculiar and extraordinary set of circumstances, then if two-thirds of the contracting parties agreed they might be permitted to apply it.

What this is designed to do, I think, is to provide a means of taking care of the completely unforeseen.

Senator MILLIKIN. I notice what seems to me to be a very wise provision there, that by the same kind of a vote, you prescribe the criteria for the use of the vote. In that connection I invite your attention to the fact that you are delegating the establishment of criteria.

Continuing on with paragraph 5 (b) of article XXV, it reads:

If any contracting party has failed without sufficient justification to carry out with another contracting party negotiations of the kind described in paragraph 1 of Article 17 of the Havana Charter, the Contracting Parties may, upon complaint and after investigation, authorize the complaining contracting party to withhold from the other the concessions incorporated in the relevant Schedule to this Agreement. In any judgment as to whether a contracting party has so failed, the Contracting Parties shall have regard to all relevant circumstances, including the developmental, reconstruction, and other needs and the general fiscal structures of the contracting parties concerned and to the provisions of the Havana Charter as a whole.

Would you mind giving us an explanation of that?

Mr. BROWN. Paragraph 5 (b) contemplates that new parties may be permitted to accede to this agreement, on terms to be prescribed by the contracting parties. It might happen in some cases that a country wished to come into the general agreement promptly, but that for some reason it was inconvenient or impossible to have tariff negotiations promptly.

For example, we must go through certain procedures of public notice and hearing, and consideration; and it might be desirable to have a new party come in and accept the general provisions, pending the necessary negotiations. If that should happen, and the new party then dragged its feet and said, "I don't think I want to negotiate any tariff concessions," the other parties could, under this provision, withhold the benefits of the tariff schedules from that newcomer. You will note that paragraph (c) specifically says that this does not apply to parties which have already carried out their negotiations.

Senator MILLIKIN. I invite your attention to the tie-in there with the Habana charter.

Mr. BROWN. Yes, sir. As it says later in this agreement, the parties undertake to observe the general principles of the charter. One of those general principles is the principle that they stand ready to negotiate for the reduction of their tariffs and for the elimination of preferences.

Senator MILLIKIN. Going ahead with the reading of that subparagraph:

If in fact the concessions referred to are withheld, so as to result in the application to the trade of the other contracting party of tariffs higher than would otherwise have been applicable, such other contracting party shall then be free, within sixty days after such action becomes effective, to give written notice to withdrawal from the agreement. The withdrawal shall take effect upon the expiration of sixty days from the day on which such notice is received by the Contracting Parties."

Mr. BROWN. That simply means that the newcomer would have to make the choice of whether it wanted to go ahead and negotiate its way in, or withdraw.

Senator MILLIKIN. Going ahead with subparagraph (c) [reading]:

The provisions of subparagraph (b) shall not apply as between any two contracting parties the Schedules of which contain concessions initially negotiated between such contracting parties.

But does it apply to the generalized provisions of the whole agreement?

Mr. BROWN. No, sir. That "initially" is inserted to take care of one or two cases in which, at Geneva, two of the contracting parties did not negotiate with each other. So that in a case where, at Geneva, contracting parties did not negotiate with each other—and there was at least one significant case of that kind—this estoppel, here, in (c), would not apply.

Senator MILLIKIN. I would like a little more clarification on that. Let us take the exact language again [reading]:

The provisions of subparagraph (b) shall not apply as between any two contracting parties the schedules of which contain concessions initially negotiated between such contracting parties.

But does it apply to everything else?

Mr. BROWN. May I read it the other way around? It might make it clearer.

Senator MILLIKIN. Yes.

Mr. BROWN. Suppose it read this way: "The provisions of subparagraph (b) shall apply as between any two contracting parties, the schedules of which do not contain concessions initially negotiated between such contracting parties."

In other words, if country X and country Y both of which are parties to this agreement, did not have any negotiations between themselves at Geneva, and consequently did not include, in their schedules, concessions on the products of which each was the principal supplier to the other, then one of those parties could say, "You did not negotiate with me the way you should have."

As I say, there was one significant case of that kind. In fact, I think there were two.

Senator MILLIKIN. Going back to subparagraph (b), again, in connection with this right of the contracting parties to withhold concessions [reading]:

the Contracting Parties shall have regard to all relevant circumstances, including the developmental, reconstruction, and other needs, and the general fiscal structures of the contracting parties concerned, and to the provisions of the Havana Charter as a whole.

I suggest to you that that inquiry is of the nature that we have discussed on a number of other occasions during this hearing.

In other words, in reaching its conclusions, the contracting party here in specific words is entitled to consider "the developmental, reconstruction, and other needs" of one of the parties, or more than one of the parties, and "the general fiscal structures of the contracting parties concerned," and "the provisions of the Havana Charter as a whole."

That is a pretty broad inquisitorial power.

Mr. BROWN. I would put it exactly the other way; and the intention of the paragraph is exactly the other way; and the reason for its inclusion is exactly the other way.

Senator MILLIKIN. That is what I want to hear about.

Mr. BROWN. The party that wanted to, shall we say, defend against the claim that it had not negotiated with respect to its tariff, wanted to be able to say, in reply to that charge, things like this: "We have a very low tariff. We are dependent on our tariff for 70 percent of our revenue. We do not have any way in which, under our rather primi-

tive organization, or the way we run our country, that we can get the revenue, other than by tariff. Therefore, if we come in and have to negotiate with respect to this tariff, which is already extremely modest, it will place an intolerable burden on us."

It was in order to be able to be sure that they could get that kind of a consideration, in order to be able to be sure that they could get those kinds of facts considered, that this provision was put in. It was not designed to initiate an inquisition into the way in which the parties were running their economies.

Senator MILLIKIN. But it authorizes exactly that; and it is not limited to one complaining party or to one defending party. It goes to all of the affected parties. Let us read the exact language again.

Mr. BROWN. I agree that the language, taken literally, is broader than the way in which I have explained it. But I have given you the origin and purpose of the provision, and the way it is understood.

Senator MILLIKIN. What is the difference between the article which we have been discussing and article 17 of the charter?

Mr. BROWN. The article is completely different. Perhaps you were directing your question to paragraph 5 (b)?

Senator MILLIKIN. The reason I asked the question is because in making up your parallel columns you put in, with reference to paragraph 25, under the heading of "ITO" a notation [reading].

No comparable provision. The ITO contemplates a formal organization with a permanent location, regular sessions, a Conference, an Executive Board, and a Director General, whereas the GATT merely provides for consultation between contracting parties."

Then, before you finish article XXV, you have included article 17 of the charter.

Mr. BROWN. I thought you were directing your attention to this particular paragraph.

Yes; there is a provision in article 17 of the charter, which says that if a party unjustifiably fails to negotiate with respect to its tariffs, then the benefits of tariff concessions given by other members may be withheld.

Senator MILLIKIN. Do you intend to bring any part of this article back to Congress?

Mr. BROWN. No, sir.

Senator MILLIKIN. Article XXVI is entitled "Acceptance, Entry into Force and Registration." [Reading:]

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 territores 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, 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. This Agreement shall enter into force as among the governments which have accepted it, on the 30th 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.

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

Then, the interpretative note:

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

Is this article the same as article 103, article 106, annex O, article 104, and the interpretative note to article 104 of the charter?

Mr. BROWN. No, sir. This article deals with the technical questions of how you bring an international agreement into force, what piece of paper you have to file where, and after what time period it becomes effective, and as between which depositors. The same subject matter is taken up with respect to the entry into force of the charter. The purpose of the two are in these respects the same. The language is different in many respects, because they are very different kinds of documents. You have this in every kind of an international agreement that has to be made effective.

Senator MILLIKIN. Do we have in the record the chronology of these various declarations and acceptances?

Mr. BROWN. Nothing has been done under this article.

Senator MILLIKIN. Nothing has been done under article XXVI?

Mr. BROWN. No, sir; because the instrument which has brought the agreement into provisional effect is the protocol to which we referred earlier. This takes care of definitive entry into force.

Senator MILLIKIN. Make that a little clearer for me; will you?

Mr. BROWN. The general agreement is being provisionally applied under a separate instrument, which was signed at Geneva, and which was called a protocol of provisional application, in which the parties said, "We agree that we will bring the GATT into provisional effect."

Article XXVI describes how you would bring it definitively and finally and formally into effect.

Senator MILLIKIN. After the provisional period?

Mr. BROWN. Whenever the countries decided they wanted to put it into effect definitively.

Senator MILLIKIN. No country so far has declared that definitive joinder?

Mr. BROWN. No, sir.

Senator MILLIKIN. Coming to article XXVII, entitled "Withholding or Withdrawal of Concessions" [reading]:

Any contracting party shall at any time be free to withhold or to withdraw 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.

What is our status with China, as far as reciprocal trade is concerned?

Mr. BROWN. The agreement is in force so far as China is concerned.

Senator MILLIKIN. Does this contemplate a situation where the government with which we negotiated the agreement has been captured by an external power, or by an internal force?

Mr. BROWN. This article is designed to meet two points: One was that not all of the contracting parties were able to put the agreement into effect at the same time, and it was felt desirable to make it possible for us, for example, to put the agreement into effect only with respect to the countries which had also put it into effect. I think I described that earlier in the hearings. So that this did permit us not to put into effect the concessions which were of principal interest to Brazil, for example, until Brazil did the same with her concessions vis-à-vis us; although we had already put into effect concessions with respect to Britain and France and the other countries that had given earlier effect to their concessions.

It also takes care of the situation in which a party to the agreement might withdraw. In that case, the other parties would withdraw the concessions which were of principal interest to that country.

Senator MILLIKIN. Under the language, would that not cover a contracting party which had gone out of existence because it had been conquered by some other country?

Mr. BROWN. That might be. That is a new thought to me, but I think that might be argued.

Senator MILLIKIN. Let me go a little further with the line of questioning that I opened a moment ago. Our agreement with China is in effect?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Have any representations been made by the revolutionists, or whatever you want to call them, in China, to change it in any way?

Mr. BROWN. No, sir.

Senator MILLIKIN. What is our situation with Poland?

Mr. BROWN. Poland is not a party to this agreement.

Senator MILLIKIN. Did we at one time contemplate negotiating a trade agreement with Poland? Was Poland invited?

Mr. BROWN. No, sir; Poland was not invited to this meeting.

Senator MILLIKIN. Do we have an agreement with Czechoslovakia?

Mr. BROWN. Yes, sir; Czechoslovakia is a party to this agreement.

Senator MILLIKIN. Is the agreement in full force and effect?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. When I say "in full force and effect," I mean are we operating under it?

Mr. BROWN. We are operating under it, and it is being lived up to on both sides.

Senator MILLIKIN. Article XXVIII is entitled "Modification of Schedules." [Reading:]

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 appropriated 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 endeavor to maintain a general level of reciprocal and mutually advantageous concessions not less favorable 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 thrity 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.

I notice that there is no comparable ITO article.

Mr. BROWN. That is correct.

Senator MILLIKIN. Would you mind explaining that article, please?

Mr. BROWN. The purpose of this article is to provide a certain amount of flexibility in the schedules of this agreement. It contemplates that after the initial term of the agreement some party may wish to renegotiate one or two or a few concessions in the agreement, although satisfied with the rest of them. It is a rather comprehensive agreement, and it was felt that circumstances might very well change in particular cases, so that it was desirable to provide a means whereby changes in individual items might be worked out without disturbing the main structure of the tariff schedules.

So this makes it legitimate for any party to come to another party with which it negotiated a concession and say, "I want to work out with you a change in this concession." This article makes that proper. It also insures that other parties which are significantly interested in the concession will be consulted. It keeps these very comprehensive schedules from being completely rigid.

Senator MILLIKIN. But whatever modification of that kind of rigidity may be desirable as far as procedure under this article is concerned, it cannot be until after January 1, 1951.

Mr. BROWN. No, sir.

Senator MILLIKIN. Now, give us the significance of January 1, 1951.

Mr. BROWN. That is the end of the initial 3-year period of the agreement.

Senator MILLIKIN. The end of the initial 3-year period of the general agreement?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. After that you can have this realinement that is contemplated by this article. What are the enforcement provisions of that article? Does it rest entirely on what a single party might wish to do?

Mr. BROWN. No, sir. The basic thought of it is that you will sit down with the other parties that are interested and work it out.

Senator MILLIKIN. But if you do not work it out?

Mr. BROWN. If you do not, and if you think it is important enough, you can then go ahead and make the change you want, and then the other party can withdraw substantially equivalent concessions.

Senator MILLIKIN. That same process could be continued all the way across the board by initial negotiators.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. By "initial negotiators" is meant those who participated in the negotiation relating to a principal supply of something?

Mr. BROWN. Basically. As you know, the way in which these schedules were worked out was by a series of separate bilateral discussions.

Senator MILLIKIN. I get the impression that the escape provided in this article is a little less rigorous than the other escapes that we have noted. If I am correct in that, does that result from the fact that it is a new day and a new deal after January 1, 1951, and the process perhaps should be made easier?

Mr. BROWN. It is designed to give some flexibility after the initial term.

Senator MILLIKIN. Mr. Brown, in our hearing a couple of years ago in relation to the GATT that was in contemplation at that time, and the charter that was in contemplation at that time, we tried to develop the relationship between the proposed GATT and the continuance of our Reciprocal Trade Act. Would you be good enough to enlighten us on that?

To focus on something: Why do we need a continuance of the Reciprocal Trade Act, assuming that GATT becomes effective?

Mr. BROWN. If GATT becomes effective, it would still be necessary for each party to be able to negotiate with respect to its tariffs, for a number of reasons.

In the first place, new parties may accede to the GATT. There must be some way of bringing that about, Secondly, modifications in the schedules may need to be made through the process of negotiation, and each party should be in a position where it could carry out the negotiations necessary to that end. So that there would be a necessity for some means of carrying on negotiations with respect to this agreement as long as it remains in force.

The method, of course, whereby each country accomplishes that is for it to decide. In this country we feel that the trade-agreements procedure is the one best suited to that purpose.

Senator MILLIKIN. But assuming, for the sake of discussion, the validity of GATT, do not our representatives on GATT have all of the essential authority to do what you have been discussing?

Mr. BROWN. Not without the Trade Agreements Act.

Senator MILLIKIN. I mean, they have acted. The GATT results from the Trade Agreements Act.

Mr. BROWN. Let us assume, which Heaven forbid, that the Trade Agreements Act expires on the 30th of June. The President would not be able to give effect to the result of the negotiations at Annecy if he did not have that authority; and should another country or countries come along a year from now and say that they would like to join the GATT, he would be able to negotiate, but he would have to do it ad referendum, in the way that it was done before 1934.

Senator MILLIKIN. But the GATT has provisions in it for negotiating with proposed new members?

Mr. BROWN. That is correct. But the President could not give effect to the results of those negotiations without authority to do so.

Senator MILLIKIN. Does not GATT, within its four corners, provide for doing all of the things that you are discussing, and doing them completely?

Mr. BROWN. Insofar as our relations with another country are concerned, yes, sir; but not insofar as the authority of the President here is concerned.

Senator MILLIKIN. What exactly would the President have to do except make some proclamations?

Mr. BROWN. That is a very important power, sir.

Senator MILLIKIN. I am not derogating that.

Mr. BROWN. Because that is a method whereby he gives effect to the result of the negotiation which he concludes.

The Trade Agreements Acts is the authority which Congress gives him to make that proclamation.

Senator MILLIKIN. If we absolve the President from the necessity of making a proclamation, and conclude to operate under GATT, would not GATT be sufficient?

Mr. BROWN. No, sir.

Senator MILLIKIN. What else would be missing?

Mr. BROWN. Let us assume that there were no Trade Agreements Act in effect on January 1 of next year, or, let us say, on July 1 of this year. Then the President would not have the authority to put into effect the results of the Annecy negotiation.

Senator MILLIKIN. Let us suppose that instead of continuing these extensions of the Reciprocal Trade Act, we simply make a review, with the object of determining those residual things which the President must do, and we absolve him from doing them, and allow these decisions to rest in the hands of the contracting parties, and allow him to appoint a representative to that body. Why could not the whole thing be carried on in that way?

Mr. BROWN. I think any form in which the Congress delegated the necessary authority to the President would enable him to accomplish the result.

Senator MILLIKIN. The authority is in GATT to negotiate reciprocal-trade agreements.

Mr. BROWN. But the authority which GATT confers is the agreement between the parties to it. It is not the authority to one branch of the United States Government as versus another. It does not determine the internal procuedures and methods for giving effect to the commitments in any country.

Senator MILLIKIN. You have made GATT out of the sources of authority that we have discussed so many times. As far as the Reciprocal Trade Agreements Act is concerned, supposing we reviewed this subject and determined what was left for the President or anyone else to do.

Mr. BROWN. How do you mean, sir, "what is left"?

Senator MILLIKIN. You said he has to make a proclamation. He still has to make a proclamation; does he not? So that is a job that remains for the President to do.

Mr. BROWN. No; he has made the proclamations with respect to the tariff concessions in the GATT.

Senator MILLIKIN. All right. So supposing we said, "Well, we will not bother you with that. Just let GATT, under the provisions which are contained in GATT, do the things that are necessary to maintain a reciprocal trade system."

Mr. BROWN. Then the President would not be able to deal with the situation, for example, in which a country which is not in GATT desired to negotiate a trade agreement with us, or to modify or expand the trade agreement which it now has with us; and there are quite a number of them.

Senator MILLIKIN. But GATT provides the procedure whereby the contracting parties may take them in.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And bind them to schedules.

Mr. BROWN. Yes, sir. But it is conceivable that it might be felt that it was more in the interests of the United States to have a bilateral agreement with a particular country.

Senator MILLIKIN. What would you say are those things, aside from the proclamation of the President, that still must be done on this side, to maintain the effectiveness of GATT?

Mr. BROWN. So far as the tariff schedules themselves are concerned, they are in effect, and nothing further needs to be done to keep them there.

Senator MILLIKIN. Will that be true as to those additional countries that join?

Mr. BROWN. No, sir. When a new country comes in, if we agree to make a concession to the new country on some product of interest to it which is not in this schedule, it would be necessary for the President to have two things: (*a*) the power to negotiate with that country, which I think he has anyway so far as the actual conference with them is concerned; and (*b*) the power to give effect to the new rates agreed upon with that country. The authority under which he has done that during the past 15 years has been the authority of the Trade Agreements Act.

Senator MILLIKIN. Suppose we just gave the representative of the United States on GATT full authority to act all the way across the board on this subject?

Mr. BROWN. I am sorry; I did not hear that.

Senator MILLIKIN. Suppose we gave the representative of the United States on GATT full authority to make agreements, to make modifications, to keep the whole thing going under GATT?

Mr. BROWN. I would have to see the way that authority was drawn, to know what it meant in the situation. I would have thought that Congress would have preferred to have that authority in the President.

Senator MILLIKIN. You understand that I would be howling my head off that you could not draw an authority of that kind, for the same reasons that I have been howling so far as the authorities in GATT are concerned. But, from your standpoint, why could not such power be given to the representative on GATT by the Congress to just take over the whole field, and stop burdening the President with it, directly at least?

Mr. BROWN. I think that is a burden the President would like to continue to carry, sir.

Senator MILLIKIN. But do you agree that such a power could be given, if such were decided?

Mr. BROWN. If the Congress decided to give the authority requested in this bill which you are now considering, to someone other than the President, you could accomplish the same result. I do not think it would be as desirable as it would be to vest it in the President.

Senator MILLIKIN. Do you or do you not believe that the President could delegate his proclamation powers?

Mr. BROWN. I do not think so, sir. The President derives his proclamation powers with respect to tariff rates squarely from the act of 1934.

Senator MILLIKIN. Let us come to article XXIX entitled "Relation of This Agreement to the Charter for an International Trade Organization." [Reading:]

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 Organization 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 provision or 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 provision 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 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.

Would you mind explaining the article, please?

Mr. BROWN. I think it would clarify the discussion if I pointed out the fact that the contracting parties have agreed to an amendment of this article. In giving you the document from which you have been reading, we gave you the provisions which are actually now in force. The draft of article XXIX which has just been read is the one which is actually in force. But there has been agreement to amend it. I think it requires unanimous vote to do it, and it was unanimously agreed that it should be done, but the formal deposit of a piece of paper necessary to bring it into force has not been made by all of the contracting parties.

I think perhaps it would be clearer to discuss the amended version rather than this one. I have it here, sir.

Senator MILLIKIN. May we have copies of it?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What are the amendments of importance? Give us an idea of the amdnements of importance.

First, however, let me get it straight again. Article XXIX is the article which is now effective.

Mr. BROWN. The one you have just read is the one which is now effective.

Senator MILLIKIN. And this which you have just handed me is a proposed amendment which has not yet come into effect.

Mr. BROWN. That is correct, sir. But there is no doubt whatever that it will.

Senator MILLIKIN. Could you tell us briefly what are the differences in philosophy between the proposed amended article and the one which we have read?

Mr. BROWN. There is no difference in philosophy. The idea that the parties to this agreement undertake to observe the general principles of the charter and the idea that when and if the charter comes into effect its provisions will supersede those of the agreement are the same.

Senator MILLIKIN. Mr. Chairman, I believe it would be helpful, in relation to our discussion of the amended article, as compared to the article in the text with which we have been working, to get into the record at this point the amended article.

(The document referred to is as follows:)

NEW TEXT OF ARTICLE XXIX

THE RELATION OF THIS AGREEMENT TO HAVANA CHARTER

1. The contracting parties undertake to observe to the fullest extent of their executive authority the general principles of Chapters I to VI, inclusive, and Chapter IX of the Havana Charter pending their acceptance of it in accordance accordance with their constitutional procedures.

2. Part II of this Agreement shall be suspended on the day on which the Havana Charter enters into force.

3. If by 30 September 1949 the Havana Charter has not entered into force, the contracting parties shall meet before 31 December 1949 to agree whether this Agreement shall be amended, supplemented, or maintained.

4. If at any time the Havana Charter should cease to be in force, the contracting parties shall meet as soon as practicable thereafter to agree whether this Agreement shall be supplemented, amended, or maintained. Pending such agreement, Part II of this Agreement shall again enter into force; provided that the provisions of Part II other than Article XXIII shall be replaced, mutatis mutandis, in the form in which they then appeared in the Havana Charter; and provided further that no contracting party shall be bound by any provision which did not bind it at the time when the Havana Charter ceased to be in force.

5. If any contracting party has not accepted the Havana Charter by the date upon which it enters into force, the contracting parties shall confer to agree whether, and if so in what way, this Agreement in so far as it affects relations between such contracting party and other contracting parties, shall be supplemented or amended. Pending such agreement the provisions of Part II of this Agreement shall, notwithstanding the provisions of Paragraph 2 of this Article continue to apply as between such contracting party and other contracting parties.

6. Contracting parties which are members of the International Trade Organization shall not invoke the provisions of this Agreement so as to prevent the operation of any provision of the Havana Charter. The application of the principle underlying this paragraph to any contracting party which is not a member of the

International Trade Organization shall be the subject of an agreement pursuant to paragraph 5 of this Article.

The interpretative note:

Paragraph 1:

Chapters IV and VII of the Havana Charter have been excluded from paragraph 1 because they generally deal with the organization, functions, and procedures of the International Trade Organization.

Senator MILLIKIN. Mr. Brown, first will you tell us when the amended article was adopted?

Mr. BROWN. The amendment was agreed upon at the second meeting of the contracting parties in the summer of 1948.

Senator MILLIKIN. Where was that held?

Mr. BROWN. At Geneva.

Senator MILLIKIN. Did any parties abstain from agreement?

Mr. BROWN. No, sir. It is my understanding that they all agreed.

Senator MILLIKIN. They all agreed?

Mr. BROWN. But the technical formalities of the deposit of the necessary piece of paper to bring it into effect have not yet been done.

The difference was, in the first place, to change some dates, to recognize the passage of time, to refer to the Habana charter rather that the Geneva draft, and to eliminate the provision of paragraph 2 which refers to the right of a contracting party to object to the idea of the supersession of the GATT by the charter when it came into force, the time within which such objection might have been lodged having passed, and everybody having agreed not to object.

Senator MILLIKIN. There is no difference in the philosophy between the two articles?

Mr. BROWN. No, sir. The two important points are the same.

Senator MILLIKIN. I notice in paragraph 1 of the amended article it states that [reading]:

The contracting parties undertake to observe to the fullest extent of their executive authority the general principles of Chapters I to VI inclusive, and of Chapter IX of the Havana Charter pending their acceptance of it in accordance with their constitutional procedures.

What is meant by the words "executive authority"?

Mr. BROWN. That means the authority that the executive would have. In other words, this in no way requires anybody to make any changes in laws or to go counter to those laws in any way, until those laws have been changed by their proper constitutional procedures, if they are changed.

Senator MILLIKIN. Then, by "executive authority" is meant the authority of that part of the government which usually executes the legislation of the legislative body of that government.

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. What are the general principles of chapters I to VI and chapter IX of the Habana charter?

Mr. BROWN. What this means is that the parties to this agreement will do all that they can within their executive authority to carry out the basic purposes and principles of the charter; which are for example the principle of consultation before action, the principle of nondiscrimination, the principle that they shall stand ready to negotiate with respect to their tariffs, the principle that if they enter into a commodity agreement they will try to have it within the concept of chapter VI, within the limitations of the provisions of that chapter.

Senator MILLIKIN. Do you have the draft charter convenient?

Mr. Brown. Yes, sir.

Senator Millikin. Would you mind marking chapters I to VI, and chapter IX and have the reporter put that in the record at this point?

Mr. Brown. You mean the titles, sir?

Senator Millikin. No, the context of chapters I to VI, and chapter IX of the charter.

Mr. Brown. I thought the charter was in the record .

Senator Millikin. Yes, but I would to have it for ready reference at this point.

Mr. Brown. All one hundred pages?

Senator Millikin. Do those chapters take up that much?

Mr. Brown. Yes, sir. They are the bulk of the charter.

Senator Millikin. All right. Never mind.

I think we have already gone into the question of which contracting parties have accepted, according to their constitutional procedures. What was your reply to my question on that?

Mr. Brown. Australia has ratified the charter, subject to acceptance by the United States and the United Kingdom. No other country has ratified it.

Senator Millikin. Is there any general reason for the delay?

Mr. Brown. I think most of them are waiting to see what the United States will do.

Senator Millikin. So far as the charter is concerned?

Mr. Brown. Yes, sir. Because it is clear that if the United States does not participate, it will not be an effective organization.

Senator Millikin. Coming to paragraph 2 [reading]:

Part II of this Agreement shall be suspended on the day on which the Havana Charter enters into force.

The charter has provisions in it which will define when it enters into force?

Mr. Brown. Yes, sir.

Senator Millikin. What is the gist of those provisions?

Mr. Brown. The charter will enter into force under one of two conditions; either 60 days after a majority of the countries which signed the final act at Habana have deposited their instruments of acceptance, or if, after March 24, 1949, a majority of the nations signing at Habana have not deposited instruments of acceptance, then on the sixtieth day after 20 of the governments signing at Habana have deposited instruments of acceptance.

Senator Millikin. When you speak of acceptance, are you referring to the type of acceptance mentioned in paragraph 1?

Mr. Brown. Yes, sir. The formal constitutional acceptance.

Senator Millikin. Part II of this agreement, GATT, generally speaking refers to what?

Mr. Brown. It includes articles III through XXIII. It does not include the first article, on most-favored-nation treatment, nor anything to do with the tariff schedules, nor the procedural articles which we have been just discussing.

Senator Millikin. It runs through what articles?

Mr. Brown. Articles III through XXIII, inclusive.

Senator Millikin. Paragraph 3 states [reading]:

If by 30 September 1949 the Havana Charter has not entered into force, the contracting parties shall meet before 31 December 1949 to agree whether this Agreement shall be amended, supplemented, or maintained.

That involves a change of dates; does it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What was the reason for the change in dates?

Mr. BROWN. The Habana Conference took somewhat longer than was expected and as a result of that it seemed unlikely that action to consider the charter would be taken by the major countries within the period originally contemplated. So a longer time was given.

Senator MILLIKIN. Have you received any further information since the time we last talked about it as to whether or when the President is going to submit the charter?

Mr. BROWN. No, sir.

Senator MILLIKIN. We have almost passed the couple of weeks we were talking about.

By what vote will it be agreed whether GATT shall be amended, supplemented, or maintained, in the event that the charter has not entered into force by September 30, 1949?

Mr. BROWN. Any amendment to the general agreement would be accomplished under the provisions of article XXX.

Senator MILLIKIN. Which would mean what, in terms of votes?

Mr. BROWN. What that would mean is that articles I and II, that is to say, the most-favored-nation article, and the one that has the tariff concessions in it, cannot be amended without unanimous consent. With respect to any other parts of the agreement, the amendment becomes effective on a two-thirds vote with respect to all parties which accept the amendment. A party does not have to accept the amendment, as far as that is concerned, but when two-thirds of the parties have accepted it then the amendment comes into effect for them.

Senator MILLIKIN. It becomes effective as to the two-thirds?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Not as to the rest?

Mr. BROWN. No, sir. Thereafter it becomes effective for each contracting party that accepts it.

Senator MILLIKIN. What is the operational problem as between those who accept and those wo do not accept?

Mr. BROWN. Those who do not accept are not bound by the amendment, but they may be asked to withdraw if the effect of their nonacceptance is considered sufficiently serious.

Senator MILLIKIN. Is it conceivable that the organization could operate with amendments which some of the parties would accept and others would not?

Mr. BROWN. Yes, sir; the parties might agree that some particular country had a special situation which they were quite willing to recognize. It would be analogous, I think to an application for a waiver, a partial waiver, of an obligation.

Senator MILLIKIN. When you use the word "supplemented" in paragraph 3, that would be by way of amendment?

Mr. BROWN. Yes, sir. All the changes would be by way of amendment.

Senator MILLIKIN. When you come to the word "maintained," suppose the question before the contracting parties was as to whether we would forget it all or go ahead with it? What would be the vote required to forget the whole business?

Mr. BROWN. It would be the same procedure, I suppose, that if the majority agreed to forget the whole business, then the majority

would forget it, and it would be left to the remaining ones, who wanted to carry on, to decide whether they wanted to agree that they would carry on as a limited group.

Senator MILLIKIN. All right.

Now, conscious of your sins, Mr. Brown, on the due date, here, you arise and say: "We want to forget this whole business. We want to embalm it, and make it a historical exhibit of foolishness. Therefore I move that this whole thing be brought to an end."

What vote would be required to have your proposition prevail?

Mr. BROWN. I think a majority vote would be required. If we did not like that, we would simply say, "We will forget it," and withdraw on 60 days' notice.

Senator MILLIKIN. A majority vote could take those out?

Mr. BROWN. Anyone who wants to go out can do so now on 60 days' notice.

Senator MILLIKIN. But to bring this thing to an end, to a complete, conclusive end, allowing anyone that wanted to the chance to start something new, but still bringing this to a complete and final and conclusive end, what vote would be required?

Mr. BROWN. You can't say; because it might very well be that a majority would say, "Let's forget it," but then two or three or four would say, "We think that as far as our relations are concerned, this is a good agreement, so let's re-enact it for ourselves."

But I think a majority vote would be the best answer.

Senator MILLIKIN. I notice under article XXIX of the text we have been working on, in paragraph 1, the obligation appears "to observe to the fullest extent of their executive authority the general principles of the Draft Charter"; which is somewhat broader than the specified articles contained in this amendment. Does the change follow any particular reason?

Mr. BROWN. I think it is only that you can hardly talk about the general principles of a chapter which deals specifically with the form of an organization.

Senator MILLIKIN. Coming to paragraph 4 [reading]:

If at any time the Havana Charter should cease to be in force, the contracting parties shall meet as soon as practicable thereafter to agree whether this Agreement shall be supplemented, amended, or maintained. Pending such agreement, Part II of this Agreement shall again enter into force—

Will you tell us again which is part II of this agreement?

Mr. BROWN. Articles III to XXIII.

Senator MILLIKIN (continues reading):

Pending such agreement, Part II of this Agreement shall again enter into force; provided that the provisions of Part II other than Article XXIII shall be replaced, mutatis mutandis, in the form in which they then appeared in the Havana Charter; and provided further that no contracting party shall be bound by any provision which did not bind it at the time when the Havana Charter ceased to be in force.

Have you any special comment to make on that paragraph?

Mr. BROWN. What that means is that if the organization is established, and should, for some reason, disappear, and the charter ceased to be in force, then this agreement would come back into effect again, automatically, pending a decision of the parties in their meeting to decide whether or not they wanted to continue it on a long-term basis. It would come back in the form of the charter. That is, the pro-

visions of part II, articles XXX through XXIII, would come back into force in the form in which they now appear in the charter.

Senator MILLIKIN. Continuing with paragraph 5 [reading]:

> If any contracting party has not accepted the Havana Charter by the date upon which it enters into force, the contracting parties shall confer to agree whether, and if so in what way, this Agreement in so far as it affects relations between such contracting parties and other contracting parties shall be supplemented or amended. Pending such agreement, the provisions of Part II of this Agreement shall, notwithstanding the provisions of paragraph 2 of this article, continue to apply as between such contracting parties and other contracting parties.

What vote would be required by the contracting parties to reach a decision under that paragraph?

Mr. BROWN. For example, suppose we do not ratify the Habana charter, and other parties to the agreement do. Suppose 20 nations do, and the organization comes into force, with the United States outside. The parties to this agreement would all get together and decide how to deal with that situation and whether or not any change in the provisions in the agreement, so far as it affects the United States would be necessary, or could be worked out to enable the agreement to carry on. I do not know whether it would be by majority or unanimous vote, but, in any event if we did not like it, we would not have to go on with it; or if any nation did not like it, they would be free to withdraw on 60 days' notice.

Senator MILLIKIN. I thought your comment that you did not know whether it would be by majority or would be unanimous left the thing pretty indefinite. Can you not give us a tighter answer on that?

Mr. BROWN. I was thinking of the difference between a legal obligation and the practical effect.

Senator MILLIKIN. Take it both ways.

Mr. BROWN. Practically, it would be unanimous.

Senator MILLIKIN. Legally it would be by majority?

Mr. BROWN. It could be; yes.

Senator MILLIKIN. Could it be by two-thirds?

Mr. BROWN. No; I think the choice would be between "majority" and "unanimous." But in practical effect the proportion of vote would be meaningless, because no party would have to go on with the new arrangement unless it wanted to.

Senator MILLIKIN. Assuming that we go though the procedures here in article XXIX, under the circumstances which they contemplate, what is the effect on the rate structure which was agreed on in the multilateral agreement?

Mr. BROWN. None whatever.

Senator MILLIKIN. The rate structure would prevail?

Mr. BROWN. That is completely excepted, taken out entirely from the operation of this article.

Senator MILLIKIN. Let us assume that we get out of this. How long will the rate structure continue?

Mr. BROWN. I am not clear as to what you mean, sir; by "get out of this."

Senator MILLIKIN. Let us say the United States of America on September 30, 1949, conscious of the fact that the Habana charter has not entered into force, decides that it no longer wants to fool around with the general agreement.

Mr. BROWN. Sixty days.

Senator MILLIKIN. After that the rate schedules would run for 60 days?

Mr. BROWN. We could give 60 days' notice of withdrawal, and drop the whole thing.

Senator MILLIKIN. That notice would carry with it the end of our rate concessions?

Mr. BROWN. If we gave that notice, our rates would revert to the status prior to the Geneva negotiation.

Senator MILLIKIN. Exactly.

Mr. BROWN. Excuse me. Let me put it this way. If we give that notice, we would no longer have any obligation to maintain the rate structure provided in this agreement. We might conceivably decide that we wanted to, but that would be a matter of unilateral decision.

Senator MILLIKIN. And that would be a matter also for the unilateral decision of the other countries with whom we had agreements.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. We would then be free to start a new course of reciprocal trade agreements, if we wanted to.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. If the Reciprocal Trade Agreements Act was in effect.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Paragraph 6 reads:

Contracting parties which are members of the International Trade Organization shall not invoke the provisions of this Agreement so as to prevent the operation of any provision of the Havana Charter.

What is the purpose of that?

Mr. BROWN. That contemplates the situation in which some parties to the agreement may accept the ITO Charter and others may not. Those who do must rely on the charter.

Senator MILLIKIN. As to those who do, they cannot set one up against the other.

Mr. BROWN. That is correct, sir. When they join the charter they accept that as controlling.

Senator MILLIKIN. In other words, they are then committed to their Siamese twin. They dare not sever one from the other, or use one against the other.

Mr. BROWN. If there were differences they could not use one against the other.

Senator MILLIKIN (continues reading):

The application of the principle underlying this paragraph to any contracting party which is not a member of the International Trade Organization shall be the subject of an agreement pursuant to paragraph 5 of this article.

Mr. BROWN. That just means if one stays out, you have to develop a modus vivendi.

Senator MILLIKIN. There is an interpretative note to article XXIX, paragraph 1, which says [reading]:

Chapters IV and VII of the Havana Charter have been excluded from paragraph 1 because they generally deal with the organization, functions, and procedures of the International Trade Organization.

I think that is clear. But those exclusions do not limit the general loyalty of those who are in the general agreement as to the provisions of the Habana charter, where they are applicable; is that correct?

Mr. BROWN. To the principles of the charter? No, sir.

Senator MILLIKIN. The statement in the original article in GATT, as we have been considering it, is [reading]:

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—

That still continues to be the view of those who join GATT?

Mr. BROWN. I think it is the view that it would be a good thing to have the charter; yes, sir. There is no difference in susbtance.

Senator MILLIKIN. You do not whittle away whatever the effect of that may be?

Mr. BROWN. I would say that the amended article was a little milder, but the difference would be very difficult to evaluate.

Senator MILLIKIN. Have there been any proceedings to modify GATT on any viewpoint, as to whether or not the charter would come into effect? There have been no modifications?

Mr. BROWN. No, sir; not from that point of view. It has always been contemplated that if the charter comes into effect, the charter provisions with respect to the subject matter that is in the GATT would control; and also, if it did not come into effect, there would be consultation to see what would happen.

Senator MILLIKIN. I notice that the original text, paragraph 2 (b) says [reading]:

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

Has that lost its significance in the amendment?

Mr. BROWN. Under the amendment the contracting parties would still remain the judges of any action that should be taken with respect to the modification of the tariff schedule under the provisions of the agreement. The other members of the organization would not need to be consulted.

Senator MILLIKIN. I notice in the original paragraph 4 of article XXIX, it states [reading]:

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—

You have taken that element out of the amendment, I notice.

Mr. BROWN. Yes, sir. When the parties met at Geneva last summer, they knew the charter would not enter into force by January 1, 1949, so that was dropped out, and the new dates which were discussed were put in the amended version of the article.

Senator MILLIKIN. Earlier in our discussions relating to the tie-in of GATT to the charter, and vice versa, you had some viewpoints on the scope of that tie-in. Does article XXIX as amended modify any of your viewpoints?

Mr. BROWN. No, sir.

Senator MILLIKIN. What are the differences between article XXIX as amended and any applicable provisions of the charter?

Mr. BROWN. There are no comparable provisions of the charter.

Senator MILLIKIN. Do you intend to bring any of article XXIX back to the Congress?

Mr. BROWN. No, sir. We intend to bring the charter to the Congress, but not any part of this article.

Senator MILLIKIN. You encourage me. You make me feel very good about that. But you do not intend to bring any part of article XXIX as amended back to the Congress, either for supplemental legislation or for approval.

Mr. BROWN. No, sir.

Senator MILLIKIN. Coming to article XXX, "Amendments" [reading]:

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 of 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.

Let me ask you, Mr. Brown: The filing of these papers, acceptances, and other documents and instruments with the United Nations is so done merely because that is an international organization which is a convenient place for the deposit and circulation of such papers?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. It does not indicate that GATT is an agency of the United Nations, does it? When I use the word "agency," I am not speaking technically. GATT has no relationship to the United Nations, except that the United Nations is employed to receive instruments and circulate instruments having to do with GATT. Is that correct?

Mr. BROWN. That is correct. The Preparatory Committee did enact a resolution in which it approved and welcomed the idea of the general tariff negotiations. I mention that for completeness, but I do not think it constitutes this group as being any kind of an agency or giving any kind of control or influence by the United Nations with respect to its operations.

Senator MILLIKIN. GATT can be considered independently of the provisions of the United Nations?

Mr. BROWN. Yes, sir. It is consistent with them, but it can be considered independently.

Senator MILLIKIN. If inconsistent, then it stands on its own feet?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. Is there any difference between article XXX of GATT and article 100 and annex N of the ITO Charter, which are set opposite article XXX?

Mr. BROWN. Yes. The only reason that they are set opposite is because they both deal with amendments. But they deal with amendments to totally different types of documents.

Senator MILLIKIN. So there is no substantive relation between the two?

Mr. BROWN. No, sir. They were put in the table as a matter of logic rather than as a matter of substance.

Senator MILLIKIN. Will you be good enough to explain to us the difference between the situation in which an amendment must be accepted by all of the contracting parties and that in which it may be accepted by two-thirds of the contracting parties?

Mr. BROWN. Very simply stated, you cannot change a tariff schedule without the consent of everybody affected——

Senator MILLIKIN. Because everybody has generalized benefits and duties.

Mr. BROWN. Except through the negotiating process which we discussed a little earlier this morning.

Senator MILLIKIN. So part I of GATT and the provisions of article XXIX relate to definite schedules which, by their nature, would require unanimous consent for their amendment.

Mr. BROWN. Yes, sir. Article XXIX is the one that relates to relationship with the charter, and that cannot be amended except by unanimous vote.

Senator MILLIKIN. It would take a unanimous vote to amend any of the provisions of GATT having to do with relationship to the charter?

Mr. BROWN. It would take unanimous vote to amend article XXIX.

Senator MILLIKIN. Article XXIX?

Mr. BROWN. That is the one we just discussed, entitled "Relation of this Agreement to the Charter for an International Trade Organization."

Senator MILLIKIN. I repeat, it would take a unanimous vote to alter anything that is in there, so far as the relation of GATT to the charter is concerned?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Is that not a little bit inflexible and rigid?

Mr. BROWN. Any requirement of unanimous consent is rigid.

Senator MILLIKIN. It makes a pretty firm tie-up, does it not? Would you say "Yes"?

Mr. BROWN. I would say this takes unanimous consent for a change to be made. That is a rigid requirement.

Senator MILLIKIN. It also is a rigid tie-up; would you not say?

Mr. BROWN. To the extent that the article is a tie-up, it is rigid.

Senator MILLIKIN. Down in paragraph 2, it says [reading]:

> The Contracting Parties shall be free to withdraw from this agreement.

Does this refer to amendments which are not made under this article?

Mr. BROWN. You are referring to a portion about "any amendment made effective under this article"?

Senator MILLIKIN. Perhaps I should put the whole sentence in. [Reading:]

> 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.

So I was wondering whether the same rule applies to amendments not contemplated by paragraph 2 of article XXX.

Mr. BROWN. I would say that the same rule would not apply to the other places that we have discussed in the agreement where there is specific provision for changes of a particular kind.

Senator MILLIKIN. Do you intend to bring any part of this back to the Congress, either for approval, or for implementation?

Mr. BROWN. No, sir.

Senator MILLIKIN. I believe we have reached a pretty good stopping place, Mr. Chairman.

Senator MCGRATH. The hearing will be recessed until 10 o'clock tomorrow morning.

(Whereupon, at 12 noon, the committee recessed to reconvene at 10 a. m. Saturday morning, March 5, 1949.)

EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT

SATURDAY, MARCH 5, 1949

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to adjournment, in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senators George (chairman), Millikin, and Williams.

The CHAIRMAN. The committee will come to order.

Senator MILLIKIN. Mr. Brown, do you know whether the peril points have been supplied to the President by the Tariff Commission?

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE, WASHINGTON, D. C.—Resumed

Mr. BROWN. I do not know, sir, but I was advised by Mr. Ryder that they would be ready on the 5th of March; that is, with respect to those that are due on the 5th of March. There are others that are not due yet.

Senator MILLIKIN. That is what I am speaking of. I will state it as a fact that they were delivered yesterday. My information is that the question came up as to whether there should be a press release on the fact, and it was decided not to have a press release on the fact.

Mr. Chairman, we have the question as to how to handle the draft of ITO. I would suggest that we put it at the conclusion of our printed record. Then we will have it ready for convenient reference.

The CHAIRMAN. The draft of the ITO Charter? You have that?

Senator MILLIKIN. It is available.

Mr. BROWN. There was a question in the committee's mind as to whether they wanted to have this entire document actually in the record, or would prefer to have it supplied in individual copies.

Senator MILLIKIN. I do not believe our record would be complete, Senator, unless it were in there; because this particular subject, at least when the committee went into it before was one of interest to libraries and students. We might be able to supply separate copies to the Senators, but that would still leave a gap, so far as the other purposes of the record are concerned.

The CHAIRMAN. We will put that in the record if you desire it in the record. I was trying to avoid too much printing.

Senator MILLIKIN. As far as the Senators are concerned, we could handle it separately; but I remember very well that we had a lot of requests as to the other hearings, 2 years ago.

The CHAIRMAN. I am advised that the draft of the charter has already been made a part of this record and indexed in the contents.

Senator MILLIKIN. Inviting your attention, Mr. Brown, to article XXXI, entitled "Withdrawal" [reading]:

Without prejudice to the provisions of Article XXIII or of paragraph 2 of Article XX, 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.

Would you mind explaining the reference to the lack of prejudice to the provisions which have been specified? What does that mean, exactly?

Mr. BROWN. That is intended to make clear that this is not the exclusive withdrawal article; because there are, as you will recall, two other places where, if a party is dissatisfied with steps that have been taken by the group, it may withdraw. It was just intended to be quite clear that that right was not impaired by this article.

Senator MILLIKIN. What effect would withdrawal under article XXXI have on the tariff schedule parts of the agreement?

Mr. BROWN. That would mean that the tariff schedule of the withdrawing party would be eliminated from the agreement. It would follow, as a practical matter, although not necessarily as a legal matter, that adjustments would be made by the remaining parties in the schedules which they have in the agreement.

Senator MILLIKIN. Why was January 1, 1951, picked as the date?

Mr. BROWN. That is the standard 3-year initial term after which 6 months' notice of denunciation applies.

Senator MILLIKIN. Is that in an effort to coincide the schedule part of the agreement to our usual 3-year reciprocal trade agreements?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I notice in the latter part of the article, that the withdrawal will become effective [reading]:

six months from the day on which written notice of withdrawal is received by the Secretary-General of the United Nations.

Could that not be a hurtful period? Six months?

Mr. BROWN. In effect, it makes the initial term of the agreement 3 years and 6 months. That is boilerplate, Senator.

Senator MILLIKIN. I understand that.

Mr. BROWN. I suppose things could happen in 6 months that might be prejudicial. On the other hand it is desirable not to have too precipitate action when you are making a major change in tariff relations between two countries, or several countries.

Senator MILLIKIN. Under the viewpoint that the agreement is experimental, which viewpoint I do not ask you to accept, by the end of 3 years there might be conditions in the world that would make it desirable for some country to get out, and get out fast; and I was wondering whether that 6 months' period might not be a very harmful thing under those circumstances.

Mr. BROWN. That would be conceivable, Senator Millikin, but it is customary in any international agreement to have a period of notice before termination becomes effective. I was not accurate when I

said that the effect of this was to make the initial period 3 years and 6 months, because you could give your notice 6 months before the end of the initial period and have it effective immediately upon its expiration.

Senator MILLIKIN. Article XXXII is entitled "Contracting Parties." [Reading:]

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

Have any such decisions been made?

Mr. BROWN. No, sir.

Senator MILLIKIN. Backtracking to article XXXI, is article XXXI of the general agreement similar to article 102 of the charter?

Mr. BROWN. They both deal with withdrawal from an international agreement.

Senator MILLIKIN. They are identical in parts?

Mr. BROWN. Yes, sir. The provisions are substantially the same.

Senator MILLIKIN. Have you any intention of bringing that article back for approval or for implementation?

Mr. BROWN. No, sir.

Senator MILLIKIN. Turning to article XXXII, is article XXXII similar to article 71 of ITO?

Mr. BROWN. In the sense that any agreement usually has in it a definition of just who the parties are. To that extent they are similar.

Senator MILLIKIN. They are not identical in language?

Mr. BROWN. No, sir; and there is no relationship between the two.

Senator MILLIKIN. Do you have any intention of bringing any part of article XXXII back to Congress for approval or for implementation?

Mr. BROWN. No, sir.

Senator MILLIKIN. Article XXXIII is entitled "Accession." [Reading:]

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. Decisions of the Contracting Parties under this paragraph shall be taken by a two-thirds majority.

That might have the effect of putting some limitation on the nations with which we would like to enter into trade agreements?

Mr. BROWN. It might have the effect of putting a limitation upon the nations that we might like to see join the general agreement. It would not put a limitation on our right to have a trade agreement with such a nation independently.

Senator MILLIKIN. Does not the ITO Charter put certain limitations on the members so far as their right to deal with outside parties is concerned?

Mr. BROWN. It does not prevent bilateral trade agreements between members of the organization, but it does strongly indicate a preference for negotiations through the mechanism of the general agreement.

Senator MILLIKIN. Some procedural difficulties are imposed, are they not?

Mr. BROWN. I would have to check that. I think so, but I am not clear on that point.

Senator MILLIKIN. In addition to Czechoslovakia, which we have mentioned, are there any countries behind what we call the iron curtain with which we have trade agreements at the present time?

Mr. BROWN. We have a commercial convenion with Russia, and we have commercial treaties with quite a number of the Balkan countries.

Senator MILLIKIN. But reciprocal trade agreements?

Mr. BROWN. I think not, sir.

Senator MILLIKIN. A country behind the iron curtain could get into this agreement if a two-thirds majority vote approved?

Mr. BROWN. Yes, sir.

The CHAIRMAN. Have we a trade agreement with Yugoslavia?

Mr. BROWN. We do not have a reciprocal trade agreement of the nature we have been discussing in these hearings, but I think we do have a commercial treaty with Yugoslavia.

Senator MILLIKIN. What was the date of that?

Mr. BROWN. I think that was in the nineteenth century, the late nineteenth century.

Senator MILLIKIN. Yugoslavia, prior to World War II, was a part of the Austro-Hungarian Empire.

Mr. BROWN. My date might be wrong. However, I am reasonably certain that it antedates the trade agreements program.

May I correct the record to show the exact date of the treaty?

The CHAIRMAN. Yes.

(Mr. Brown later supplied the information that the Treaty of Commerce and Navigation between the United States and Yugoslavia (then Serbia) was concluded in 1881.)

Senator MILLIKIN. This article XXXIII is similar to what part of the ITO Charter?

Mr. BROWN. Article 71 is the part of the ITO Charter that deals with the admission of new members.

Senator MILLIKIN. Here again there is similar purpose; that is to say, the two provisions provide mechanics for taking in the members. The language is somewhat different.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Do you intend to bring any part of that article back to Congress for approval or for implementation?

Mr. BROWN. No, sir.

Senator MILLIKIN. Article XXXIV is entitled "Annexes." [Reading:]

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

In that connection, you handed me yesterday an amending provision applicable to one of the articles. This same document that you handed me carries a whole group of amending articles. Have they been incorporated into the articles which we have been discussing here?

Mr. BROWN. The articles we have been discussing here embody practically all of the amendments which have been agreed upon.

The only exception is article XXIX, which we discussed, in which the amended article is not yet fully in force.

Senator MILLIKIN. So that we need not go into these protocols separately.

Mr. BROWN. No, sir.

Senator MILLIKIN. Article XXXV reads as follows [reading]:

1. Without prejudice to the provisions of paragraph 5 (b) of Article XXV or to the obligations of a contracting party pursuant to paragraph 1 of Article XXIX, this Agreement, or alternatively Article II of this Agreement, shall not apply as between any contracting party and any other contracting party if:

(a) the two contracting parties have not entered into tariff negotiations with each other, and

(b) either of the contracting parties at the time either becomes a contracting party does not consent to such application.

2. The Contracting Parties may, at any time before the Havana Charter enters into force, review the operation of this Article in particular cases at the request of any contracting party and make appropriate recommendations.

Would you mind explaining that article, please, Mr. Brown?

Mr. BROWN. I think I mentioned earlier that it was contemplated that it might be desirable in some cases for a new party to adhere to the general provisions of the agreement before it had a chance to complete tariff negotiations and, so to speak, pay the dues. This makes it possible, in such a case, for the other parties, or any of them, to withhold application of the tariff schedules in the agreement as to the new party until the new party has, to so speak, paid its fee.

I could give you an illustration.

For example, in the case of the Philippines, we or the Philippines might wish to accede to the agreement. In the Philippine Trade Act a provision was put in against negotiating a trade agreement with the Philippines. We could not have a tariff negotiation with the Philippines until and unless the Congress removed that prohibition. On the other hand, the Philippines might wish to negotiate with all the other countries, and they might wish to have the Philippines do so. This would permit that to happen, but would not obligate us to enter into any negotiation until the Congress had decided whether it did or did not want us to do so.

Senator MILLIKIN. What are the Philippines doing in the way of alining themselves with this general agreement?

Mr. BROWN. They have not done anything about it yet. They have not indicated a desire to adhere as yet.

Senator MILLIKIN. There is a reference to doing the things provided in article XXXV without prejudice to paragraph 5 (b) of article XXV. Paragraph 5 (b) of article XXV has to do with prescribing such criteria as may be necessary for the application of that paragraph, and the general heading of the article is "Joint Action by the Contracting Parties."

It provides, among other things, for waiving obligations, and so forth. Then there is another reference to paragraph 1 of article XXIX.

Mr. BROWN. It is a little simpler than that, Senator Millikin. Paragraph 5 (b) of article XXV is the one that says that a country cannot indefinitely stall on entering into negotiations with an incoming member. In other words, it just provides that you cannot abuse this privilege of article XXXV of withholding tariff negotiations.

That is the purpose of the exception.

Senator MILLIKIN. Have not all of the members of this agreement entered into negotiation with each other?

Mr. BROWN. No, sir.

Senator MILLIKIN. Give us a little enlightment on that?

Mr. BROWN. In a few cases the trade between the countries involved was so insignificant as not to provide any basis for a tariff negotiation.

In one other case, they negotiated and failed to reach any kind of an agreement.

Senator MILLIKIN. But are they signatories?

Mr. BROWN. They are signatories. But there is nothing in any of the schedules dealing with articles of principal interest in the trade between those two countries.

Senator MILLIKIN. I notice it says in paragraph 2 [reading]:

> The Contracting Parties may, at any time before the Havana Charter enters into force, review the operation of this Article in particular cases at the request of any contracting party and make appropriate recommendations.

Is the thought that if the Havana charter comes into force, then the provisions of the Havana charter will take care of the situation contemplated.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now we come to annex A, entitled "List of Territories Referred to in Paragraph 2 (a) of Article I."

Paragraph 2 (a) of article I has to do with [reading]:

> 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.

Mr. BROWN. I could make a general comment on annexes A to G, inclusive.

Senator MILLIKIN. I wish you would.

Mr. BROWN. Article I provides for general most-favored-nation treatment, but it has always been customary, in our trade agreements, to exempt from that requirement certain of the established preferential systems; our preferences with Cuba, for example, the preferences between the members of the British Commonwealth, and some minor preferences that exist between contiguous countries in Latin America.

What these annexes do is simply to list the areas involved in that exception. Generally speaking, they are: in annex A, the members of the British Commonwealth; in annex B, the French Union, that is, metropolitan France and her colonies; in annex C, Benelux and the colonies of their members; in annex D, the United States, our dependent territories, and the Philippines—Cuba is mentioned specifically in the article itself; in annex E, those border preferences in Latin America; in annex F, some preferences which exist between the Lebano-Syrian customs union, and two adjacent territories of minor importance; in annex G, simply the base date on which you determine the level of preference which is accepted; and in annex A, a few technical notes, some of which we have already discussed.

Senator MILLIKIN. My rough count indicates there are more than 40 territories listed under the various annexes to which you have referred. As to those 40 or more, there are certain preferential treatments between the mother country and these territories?

Mr. BROWN. Yes, sir. Generally the mother country gives free entry to the products of the colony, and in some cases the products of the mother country also get a preferential treatment in the colony, but not in all cases.

Senator MILLIKIN. I invite your attention to the testimony of Mr. Hawkins of the State Department in part I of the hearings which were held before this committee back in March and April of 1947, on the relation of the trade-agreements system and the proposed International Trade Organization Charter, page 196 [reading]:

The CHAIRMAN. If we have not received that definite agreement, then we may conclude that we will never receive it, or the more optimistic among us may say that perhaps at some time in the future we may receive it. Is that correct?

Mr. HAWKINS. If the general agreement on tariffs and trade fails at Geneva, Senator, I do not think Congress will see the charter because I do not believe there will be any.

The CHAIRMAN. In other words, it follows that if these preferences cannot be eliminated there is no point to the charter. Is that correct?

Mr. HAWKINS. Yes; and the action contemplated on the tariffs. When you say eliminated, it does not necessarily follow that they will all be gone, but the parts that hurt will be gone. There is not any point in throwing away negotiating ammunition to the extent that you have it on preferences that are not important. In some cases it may be that a sufficient reduction in the margin of preference would be adequate.

The CHAIRMAN. But if the real substance of the preferences is not eliminated, there will be no point to the Charter and it will probably not come before the Congress.

Mr. HAWKINS. I should think that would be it.

Mr. BROWN. May I comment, Senator?

Senator MILLIKIN. Yes, surely.

Mr. BROWN. These annexes which we have been discussing define the areas within which the rule for unconditional most-favored-nation treatment does not need to apply. It does not deal with the level of the preferences or amount of preferences in particular cases. The fact that there are some 40 separate individual areas listed is not a point of any significance in terms of the effect of the preferences on the volume of international trade.

For example, the fact that the products of St. Pierre and Miquelon get free entry into metropolitan France, is something on which you just would not want to waste any bargaining power. It is of no interest to our trade at all.

At Geneva we had extensive negotiations on the subject of preferences. A considerable number of important preferences were completely eliminated. Another very considerable number were very substantially reduced. We secured the absolute commitment that no preferences would be increased, something entirely new in the matter of dealing with preferences. The contractual umbilical cord with respect to preferences between the United Kingdom and Canada, which is perhaps the most important nexus of preferences that exist, was entirely severed. So that a substantial dent in this matter of preferences was accomplished by the method which was contemplated; that is to say, the method of negotiation on the individual items.

Senator MILLIKIN. Would you mind providing us with a list of the preferences which are bound by the dates specified in the article, that is, bound against increase, the preferences which were eliminated completely, and the preferences which were reduced?

Mr. BROWN. The last two points could be provided. The first would in some cases involve the whole tariff of the country, every

single item in the tariff. Because the way these preferences are set up in some cases, is that any product coming from country X or colony X no matter what it is, gets free entry, or gets a 20-percent preference. So that to give that list would require a pretty exhaustive compilation of the tariffs of all these countries.

Senator MILLIKIN. Then let me modify my request. You have three categories of information. First, give me as much general information as you can on those preferences which cannot be increased.

Mr. BROWN. No preferences can be increased, of any kind.

Senator MILLIKIN. No preferences? All right. Make that statement. Then give us a statement as to the preferences which will continue to exist as of the dates that are mentioned in the article, but without going into the detailed items. Simply say something, in effect, if you wish to, of the nature that you have said, that these prefences go to all of the schedules and it is impractical to list all of them, or something of that kind. Then, as to those that have been reduced, it ought to be easy to state them; and as to those that have been eliminated, it should be easy to state them.

(The information requested is as follows:)

STATEMENT WITH REGARD TO EFFECT OF THE GENERAL AGREEMENT ON MARGINS OF PREFERENCE

Under paragraph 3 of article I, and annex G, of the general agreement, all margins of preference are bound against increase. Such margins are either (1) those specifically set forth in the appropriate schedule; (2) those fixed through inclusion of both the preferential and the most-favored-nation rate in the appropriate schedule; (3) those fixed by the most-favored-nation rate included in the appropriate schedule and the preferential rate on a base date; and (4) all other margins which are fixed by the margin actually existing on a base date. The base date is April 10, 1947, the opening of the conference at which the general agreement was concluded, except as otherwise specified in annex G, which is as follows:

ANNEX G

Dates establishing maximum margins of preference referred to in par. 3 of art. I

Australia	Oct. 15, 1946.
Canada	July 1, 1939.
France	Jan. 1, 1939.
Lebanon-Syrian customs union	Nov. 30, 1939.
Union of South Africa	July 1, 1938.
Southern Rhodesia	May 1, 1941.

Prior to the Geneva negotiations, Brazil, China, Czechslovakia, and Norway maintained no tariff preferences so far as imports from the United States are concerned. Following is information, by countries, regarding tariff preferences of the other contracting parties which were eliminated or reduced under the general agreement.

AUSTRALIA

In the general agreement Australia eliminated margins of preference on 39 tariff items, and reduced margins on 157 others. Products of special interest in United States trade are included in both categories.

Preferences eliminated on—

Liqueurs
Champagne
Tobacco, unmanufactured (to be used in the manufacture of cigarettes)
Cigarettes
Tobacco, unmanufactured (to be used in the manufacture of cigars)
Cigars
Cocoa beans, shells and nibs, roasted

Preferences eliminated on—Continued

Egg yolk, dry
Fish, fresh, smoked, or dried (except for New Zealand)
Fish, n. e. i. (except for New Zealand)
Fruits, dried
Lentils (two separate items)
Coconuts, prepared
Brazil nuts
Waxes (Carnauba)
Woven wire
Monoline type-composing machines
Lubricating oil
Citicica oil
Tung oil
Babassu oil
Coconut oil, unrefined
Palm oil
Petroleum oils (two separate items)
Gas carbon black
Ultramarine blue in powder form
Gum copal, etc., n. e. i.
Timbo powder, when not packed for retail sale
Staves, undressed
Millboards
Cigarette tubes, paper, and papers
Motorcycles (certain types)
Cameras, not including tripods
Tapestries, wool, made by hand
Wattle bark
Raw cotton, other
Asbestos, crude

Preferences reduced on—

Gin
Rum, pure
Rum, blended
Bitters
Perfumed spirits
Other sparkling wines
Still wine, in bulk
Aerated or mineral waters
Cocoa mass paste, sweetened
Cocoa butter, n. e. i.
Powdered cocoa and chocolate
Egg albumen, dry
Salmon, canned
Canned asparagus
Pâté de foie gras
Sago and tapioca
Toilet, fancy, or medicated soap
Soap substitutes and detergents
Cloves and pepper
Potato flour or farina
Cotton piece goods (five separate items)
Cotton bedticking
Silk piece goods
Piece goods, not wholly or artificial silk
Piece goods, n. e. i., mixtures (three separate items)
Velvets, velveteens, plushes, etc.
Lace for attire: Flouncings, millinery net, etc.
Woolen piece goods
Felt, wool (two separate items)
Hair cloth and cloth of hair
Leather and leather cloth binding
Tinsel thread
Trimmings and ornaments
Buckles, clasps, and slides (two separate items)
Buttons, metal
Woven and embroidered materials in the piece

Preferences reduced on—Continued

Regalia ribbons for use in manufacture of lodge regalia
Feathers, dressed
Artificial flowers
Hair nets
Gloves, n.e.i., including mittens
Other cotton blankets
Cotton floor coverings
Felt-base floor coverings
Coir matting
Quilts
Printed cotton bedspreads
Hoops, including galvanized, 12 gage and thicker
Hoops, n. e. i.
Antimony
Cast-iron pipes
Firecrackers
Railway and tramway equipment
Iron or steel beams, not drilled
Barbed wire
Linotype and other composing machines
Typewriters
Hand tools, pneumatic, portable
Air or gas compressors, n. e. i.
Metal working machines
Wool scouring and washing machines
Refrigerators
Compressors, evaporators, sealed refrigerating units for refrigerators
Refrigerating appliances and parts
Meters (two separate items)
Air compressors (three separate items)
Internal-combustion engines
Electric heating and cooking appliances (five separate items)
Small electric motors
Wireless receivers and parts (nine separate items)
Condensers (three separate items)
Electric registers and meters
Measuring and recording instruments, n. e. s.
Valves for wireless telegraphy
Alternating current watt-hour meters (two separate items)
Arms, guns, etc. (five separate items)
Electric smoothing irons
Band saws
Tap wrenches
Metal hand tools of trade (artisans)
Linseed, inedible
Refined cod liver oil
Tiles, flooring and wall
Chinaware, parianware and porcelainware, n. e. i.
Pudding basins of brownware, chinaware, etc. (two separate items)
Sheet, plate, and bent glass (three separate items)
Locket, brooch, and watch glass
Mica and manufactures thereof
Bottles, flasks, vials, tubes, n. e. i.
Blown-glass blanks
Glass tableware, etc.
Glue, dry
Sulfate of soda (two separate items)
Morphia, when not packed for retail sale
Acety-salicylic acid
Essential nonspirituous oils
Timber, undressed, n. e. i. (three separate items)
Timber for making boxes, dressed
Veneers
Staves (two separate items)

Preferences reduced on—Continued

Cricket bats
Toys
Jewelry, n. e. i.
Opera field and marine glasses
Chamois leather
Leather manufactures, n. e. i.
Boots, shoes, slippers, clogs, etc. (three separate items)
Tissue paper
Strawpaper and strawboard
Cyclometers; valves for pneumatic tires
Aeroplanes and other aircraft, etc., and parts (two separate items)
Chassis for cars
Pipe organs
Carillons and bells
Black china bristles
Brushes used for brushwork in schools
Crochet, knotting, etc., cotton thread

BENELUX (BELGIUM, THE NETHERLANDS, AND LUXEMBURG)

In the Benelux schedule of the general agreement there are specific commitments with regard to any future preferences on unstemmed leaf tobacco, oranges, and grapefruit. On leaf tobacco, freedom from preferences to overseas territories is assured; on oranges and grapefruit the products of overseas territories are committed to a duty of not less than 50 percent of the most-favored-nation rate during the period October 16 to April 14, and are to receive no preference during the remaining portion of the year. There are no preference rates in the tariffs of the Belgian Congo and the Netherlands overseas territories.

BURMA

Burma's tariff system includes one regular and three separate preferential tariff levels, the latter accorded respectively, to the United Kingdom, to British Colonies and to India. Reductions in the regular tariff rates result in narrowing, in different degrees, some of the various margins of preference. The principal item of interest in United States trade so affected is lubricating oil, on which the preference to the United Kingdom was eliminated.

CANADA

In the general agreement Canada eliminated her preferences on 83 items. In 1939, imports of these items from the United States were valued at approximately $21,000,000, and from all countries at approximately $34,000,000. The products of principal interest to the United States in this list are:

Preferences eliminated on—

Coal, anthracite
Oranges
Grapefruit
Plums and prunes, dried and unpitted
Clothing and miscellaneous manufactures of:
    Cotton
    Linen and other vegetable fiber
Miscellaneous manufactures of copper or brass
Containers of fiberboard or paperboard
Motion-picture films, positives
Axles, other than railway
Rice

Preference reductions

Canada reduced her margins of preferences on about 550 items. Imports of these items from the United States in 1939 were valued at $102,000,000. On about one-half of these items, by value, the preferences were reduced by one-third or more. In addition, preferences on a number of items, especially fresh fruits and vegetables, were either reduced or eliminated for a part of each year or on a part of a tariff item. Items in this category accounted for another $7,000,000 of imports from the United States.

Some of the most important products on which Canadian tariff preferences were reduced in the general agreement are:

Coal, other than anthracite
Fresh fruits other than those on which the preferences were eliminated
Fresh vegetables
Raisins
Corn
Fruit juices
Tobacco, unmanufactured
Clothing and other miscellaneous manufactures of:
    Wool and other animal fibers
    Silk or synthetic fibers
Aircraft and parts
Aircraft engines
Electric wireless or radio apparatus
Apparatus for heating or cooking
Nickel-plated ware, gilt-electroplated ware
Electric motors
Boots, shoes, etc.
Advertising and printed matter
Glass bottles, etc.
Office machines
Refrigerators
Furniture

Freedom to reduce preferences

After the Geneva negotiations Canada and the United Kingdom announced that in the future each country would be free to reduce a margin of preference granted to the other, without the consent of the other country.

CEYLON

Concessions granted by Ceylon in the general agreement are now being renegotiated. It is therefore not yet possible to list the preference concessions which may result from the renegotiation.

CHILE

Under the general agreement the Government of Chile eliminated its preference (to Argentina) on pedigreed cattle and reduced its preferences (to Argentina) on pedigreed horses and (to Peru and Argentina) on alfalfa seed.

CUBA

Because of the special conditions occurring in connection with preferences extended by the United States to Cuba and by Cuba to the United States, and because of the large number of products involved, it is not practicable to enumerate all the products affected. The largest item on which the United States maintained its margin of preference to Cuba is sugar, of which 1939 imports into the United States from Cuba were valued at approximately $73,000,000.

The following tabulation indicates, by the value of the trade, the scope of the changes in tariff preferences between the United States and Cuba occurring as a result of the general agreement:

Tariff treatment	United States imports of Cuban products		Cuban imports of United States products	
	Value (thousands of dollars)	Percent of total	Value (thousands of dollars)	Precent of total
Margin of preference as of Apr. 10, 1947, retained	90,450	95.0	59,610	84.1
Margin of preference reduced	4,037	4.2	10,968	15.5
Preference eliminated	740	.8	306	.4
Total	95,227	100.0	70,884	100.0

FRANCE

Imports into metropolitan France from the French overseas territories are generally duty-free. Therefore, any reduction in the French tariffs under the general agreement constitutes an automatic narrowing of the preference accorded to goods from the overseas territories. Thus, in effect, preference margins have been reduced with respect to all items which are or may be imported from the overseas territories and on which concessions are made in the French schedule of the agreement. The number of such items is so large that it would be impracticable to list them.

FRENCH OVERSEAS TERRITORIES

The French granted concessions on imports into their overseas areas which reduced or eliminated the margins of preference on many items of primary interest to the United States. Imports of these items into the French overseas areas from the United States in 1938 were valued at about $7,000,000, out of total imports from the United States of about $13,300,000. The margins of preference were reduced or eliminated on items representing about $5,200,000 of this amount.

In French West Africa and that part of French Equatorial Africa outside the conventional Congo Basin the margins of preference are the surtaxes, which are applied only to imports from foreign sources (except for petroleum products), while the revenue tariff, which is fiscal in nature, is applied to imports from all sources, including France. Reductions were made in the surtaxes applicable to goods whose imports into these two areas from the United States in 1938 were about $1,900,000.

French goods enter the assimilated colonies (Guadeloupe, Martinique, French Guiana, Madagascar, and Reunion) free of duty, and the margin of preference is therefore either the special tariff which each of these colonies applies to imports of certain categories of goods, or the French tariff, which is applied to the remaining categories. The reductions which were made in the special tariffs covered items whose imports into these colonies from the United States in 1938 amounted to about $2,000,000. The margins of preference were also reduced by the concessions obtained in the French tariff for those items to which these colonies apply the French tariff rather than a special tariff.

French Oceania, New Caledonia, French Somaliland, and St. Pierre and Miquelon have independent tariffs, and since imports from France are duty-free, these tariffs represent the margins of preference. Reductions were made in these tariffs applicable to goods whose imports into these areas from the United States in 1938 were about $450,000.

The Tunisian tariff is partly the same as the French tariff and partly a special tariff. Some French goods enter free of duty, while others enjoy preferential rates of duty. Reductions were made in the margins of preference on items whose imports into Tunisia from the United States in 1938 amounted to about $910,000

Preferences eliminated on—

French Establishments in Oceania:
- Salmon, tinned
- Pilchards, tinned
- Beans, peas, lentils, etc., dried
- Grapes and other fruit dried or desiccated
- Woods, common, in logs, squared or sawn
- Ropes of all kinds and sizes

Guadeloupe:
- Meat, salted or pickled, raw, not prepared

French Guiana:
- Wheat flour

Martinique:
- Meat, salted or pickled, raw, not prepared
- Prepared meats: Pork, beef and other—uncooked, smoked, dried, rolled or simply stewed
- Woods squared or sawn, other (except timber for barrel making)
- Heavy oils: Lubricating and other

St. Pierre and Miquelon:
- Meat preserved in tins
- Shoes, boots, slippers, and footwear of any kind of leather or hide, lined or not

Preferences reduced on—

French Equatorial Africa (part of Gabon not comprised in the treaty basin of the Congo):
- Wheat flour
- Leaf tobacco
- Petroleum, schist and other mineral oils; refined oils and benzine (gasoline)
- Agricultural and horticultural machines, including agricultual tractors
- Steel tires for railway cars
- Automobiles specially fitted for carrying passengers, excluding motor coaches
- Detached parts and accessories for automobiles of any kind

French West Africa:
- Tobacco in leaves
- Manufactured tobacco:
  - Cigars
  - Cigarettes
- Refined and extra refined petroleum
- Agricultural and other tractors (except gazogene tractors): Within a yearly quota of 1,000 tractors, inclusive
- Automobiles, other than gazogene (B)
- Detached parts and accessories for automobiles
- Wheat flour

French establishments in Oceania:
- Refined sugar
- Cigars
- Cigarettes
- Heavy mineral oils (mazout)
- Kerosene
- Petrol (gasoline)
- Lubricating oils
- Colors, ground in oil, other than lamp and petroleum black
- Paper and manufactures of paper
- Manufactures of metal except jewelry, watches, alarm clocks, machines, tools, cutlery, and household wates
- Electric and electrotechnical machines and apparatus (except electric torches)
- Tools with or without handle
- Automobiles for carrying passengers
- Automobiles for carrying goods
- All accessories, parts and detached parts for automobiles of all kinds
- Sewing machines
- Typewriters

Guadeloupe:
- Sausages
- Meat preserves: Pork, cooked, in tins or other containers
- Wheat, spelt and meslin: Flour (at any rate of extraction)
- Heavy oils and residues of petroleum and other mineral oils (lubricating oils), on importation
- Casks, vats, tubs, pails, and other coopers' wares, serviceable, fitted together or not, hooped with wood or metal: Casks containing less than 500 liters

French Guiana:
- Meat, preserved, in tins:
  - Pork
  - Other than pork

Madagascar and Dependencies:
- Benzine (gasoline)
- Refined petroleum oils (kerosene)
- Heavy oils, other (lubricating oils)

Martinique:
- Prepared meats: Pork, beef, and other—cooked
- Sausages
- Pork, cooked, preserved in tins or other containers
- Wheat flour

New Caledonia:
- Sewing machines
- Machines, complete, not elsewhere mentioned: Machines for extraction of ores
- Typewriters

St. Pierre and Miquelon:
Machines and other apparatus, machine tools, balances, weighing machines and spare parts of cast iron, iron, steel or other metal; machines other than steam machines, marine engines, marine motors, electric and electro-technical apparatus, and typewriters and calculating machines

Tunisia:
Agricultural and other tractors
Other agricultural machines (not including engines)
Refrigerating apparatus for merchant ships and other
Dynamo-electric machines and industrial electric transformers, dry or in oil
Dynamo-electric machines for equiping motor vehicles of all kinds (cars, ships, airships, aircraft, etc.)
Detached and component parts of machines, of wrought iron, wrought or molded steel, having been bored, turned, filed, or finished

INDIA AND PAKISTAN

Before the Geneva negotiations India—including what is now Pakistan—extended tariff preferences to the United Kingdom and the British Colonies on 56 items. In the general agreement India and Pakistan eliminated these preferences on 6 items and reduced them on 25. Many of the products concerned are of special interest in United States trade.

Preferences eliminated on—

Rosin
Tung oil
Canned asparagus
Tobacco, unmanufactured
Certain paints and solutions
Motorcars and parts (to be eliminated over a period of 6 years)

Preferences reduced on—

Dehydrated vegetables
Apples and pears, fresh
Prunes and grapes
Cassia lignea
Fruit juices, canned
Canned fruits
Canned pineapples
Canned vegetables
Asphalt
Chemicals, drugs, and medicines (nine separate items)
Lithopone
Domestic refrigerators
Wireless receivers
Electric valves for receivers
Parts for wireless receivers
Combination radio phonographs
Wireless transmission apparatus

NEW ZEALAND

New Zealand preferences on 18 import items were eliminated in the general agreement, and preferences on 172 items were reduced.

Preferences eliminated on—

Soybeans
Cocoa; also cocoa-beans roasted or crushed
Grapes, lemons (except for South Africa)
Canned prunes
Walnuts, shelled or unshelled
Cigarettes (two separate items)
Unmanufactured tobacco
Brandy, gin
Champagne
Dressed or prepared furs

Preferences eliminated on—Continued

Bookbinders' leather
Adding and computing machines and instruments
Refrigerating units
Vegetable oils, n. e. i.: olive, palm, peanut
Logs, n. e. i. (except for Australia)
Sausage skins and casings

Preferences reduced on—

Oilcake
Onions
Fresh vegetables
Aerated waters and beverages
Grain and pulse (three separate items)
Chocolate
Coffee, raw
Fruit juices, unsweetened
Citrus-fruit pulps
Tea (two separate items)
Confectionery
Fish, potted or preserved
Raisins
Apricots
Oranges
Preserved pineapple
Preserved fruits (two separate items)
Trees and plants (two separate items)
Honey
Meats potted or preserved
Soups and spaghetti
Canned beans
Cinnamon, cloves, ginger, etc.
Arrowroot, sago, tapioca
Cornflour
Perfumed spirits
Sparkling wines
Essences, culinary or flavoring
Medicinal preparations
Surgical or dental instruments
Surgeons', physicians', and dentists' materials
Scientific instruments
Gloves and mittens (two separate items)
Women's and children's outer garments
Hosiery
Boot and similar laces
Braids and bindings
Buttons
Drapery
Elastics of all kinds
Ornamental feathers
Carpets, etc.
Linoleum, cork carpets
Fur apparel
Haberdashery
Hairpins, hatpins, etc.
Straw hats
Lace and laces, n. e. i.
Sewing and embroidery threads
Textile piece goods (seven separate items)
Yarns (two separate items)
Belts and belting, n. e. i.
Boots, shoes, etc. (three separate items)
Chamois leather
Parchment made from skins
Leather manufactures, n. e. i.
Chinaware (two separate items)

Preferences eliminated on—Continued

Sheet or plate glass
Mirrors
Glassware, n. e. i.
Artists' materials
Clocks, time registers, etc.
Fancy goods and toys
Jewelry (gold, etc.)
Magic lanterns
Picture moldings
Musical instruments and parts (two separate items)
Phonographs, gramophones, etc.
Cameras
Photographic goods
Sensitized or albumenized papers
Tobacco pipes
Toilet preparations, n. e. i.
Stencilling or similar inks
Monotype paper, in rolls
Paper hangings
Waxed paper
Printed celluloid paper and wrappers
Paper, n. e. i. (including tinfoil) (four separate items)
Firearms and fittings therefor (three separate items)
Cartridges, cartridge cases, etc. (four separate items)
Unmounted fishhooks
Lawnmowers, other than hand-roller type
Cash-registering machines
Engines (three separate items)
Electrical machinery or appliances (four separate items)
Electric locomotives and parts for (five separate items)
Electric lamps
Drawing machines, compasses, etc.
Mining machinery and engines
Traction engines and tractors
Machinery, machine tools and appliances, and machines (10 separate items)
Machinery for use in manufacturing, industrial, or similar processes (two separate items)
Artificers' tools, n. e. i.
Hardware, hollowware, and ironmongery
Metals (nine separate items)
Nails or tacks
Leadheaded nails
Pipes, piping, tubes, and tubing (except coil pipes) (six separate items)
Rails for railways or tramways
Wire netting
Bicycles, tricycles, and motorcycles: Fittings for sidecars for motorcycles
Motor vehicles (two separate items)
Boot polishes
Paints, colors, varnishes, etc. (two separate items)
Timber: Logs, sawn, rough hewn (three separate items) (reduction in preference contingent upon reduction United States import excise tax on Canadian timber)
Veneers
Woodenware and turnery, n. e. i.
Cordage, rope, and twine, n. e. i.
Gelatine, glue, isinglass, and size

SOUTHERN RHODESIA

Southern Rhodesia did not eliminate any preferences under the general agreement. The margin of preference on motorcycles and spare parts was reduced by 70 percent.

SYRIA-LEBANON CUSTOMS UNION

Since 1939, certain imports from Palestine have been admitted into the Syria-Lebanon customs union duty-free, on a reciprocal basis. Certain other commodities are subject to only two-thirds of the normal rate of duty paid on products of the United States and most other countries. An additional list of luxury and other items paid the normal [regular] rate of duty. Reductions in the normal rate

of duty as a result of the general agreement operate automatically to reduce the margins of preference on goods from Palestine whether the items in question were previously duty-free or subject to two-thirds of the normal duty. It is understood that the preferential rate to Palestine of two-thirds of the normal duty is based on the level of the duty as reduced in the agreement.

A 1923 convention between Lebanon, Syria, and Transjordan exempts all products of each signatory country from import duties of the other signatory countries.

Concessions made in the GATT by the Syro-Lebanese customs union of primary interest to the United States and resulting in a reduction in the margin of preference granted to similar imports from Palestine:

Automobiles
Confectionery
Cosmetics and articles of perfumery
Dentifrices
Electric accumulators (batteries) and their plates
Machine tools
Office machines and parts
Tires and tubes
Tractors
Waxes, encaustic, creams, pastes, and similar preparations.

UNION OF SOUTH AFRICA

The Union of South Africa eliminated tariff preferences on six items, which accounted for $2,619,000 worth of South African imports from the United States in 1939.

Preferences eliminated on—

Typewriters
Tractors
Sprayers and sprinklers
Barbed wire
Socks
Cranes

On nine items the margin of preference was reduced. Imports of these items from the United States into South Africa in 1939 were valued at $4,092,000. The most important items in United States trade with South Africa on which the South African preferences were reduced were—

Lard
Canned asparagus
Industrial machinery
Lumber

UNITED KINGDOM

The United Kingdom, in the general agreement, eliminated preferences entirely on 17 items, imports of which from the United States in 1939 were valued at approximately $22,700,000, more than two-fifths of the total imports of these items from all countries.

Preferences eliminated on—

Fresh apples
Dried apples, peaches, pears, and nextarines
Fruit salad
Salmon, frozen
Sausage casings
Dried prunes
Agricultural tractors (not track-laying)
Pigs' tongues, canned
Women's and girls' dresses and skirts, silk and artificial silk
Motorcycles and motor tricycles
Coconuts
Sparkling wine (preference on surcharge eliminated)
Caroa fiber
Guaxima
Papoula de Sao Francisco
Capiobra oil
Gambier

Preferences reduced on—

On 226 items the United Kingdom reduced its margins of preference. Imports of these items from the United States in 1939 were valued at $50,000,000. Some of the more important of these products are—

Canned salmon
Canned peas
Cash-register parts
Soybeans
Canned beans
Wood and timber, coniferous
Track-laying tractors
Canned, ground, or chipped meat
Maize starch
Cherries, stoned
Electric cooking and heating apparatus
Cash registers
Women's footwear
Hard soap
Scrap and waste of chrome-tanned leather
Rubber tubing and piping
Printers' ink
Cinematograph appliances, arc lamps
Vegetables, canned
Cylindrical helically groved drills
Medical and surgical apparatus
Artificial teeth, wholly or partly of metal
Air and gas compressors and exhausters
Portable power tools, pneumatic
Conveyors, telphers, and transporters
Cranes, hoists, and lifting machinery
Excavating machines
Mining machinery
Circular saws, hacksaw blades, etc.
Printing machines
Refrigerator machinery
Welding machinery
Sewing machines
Textile machinery:
    Warp knitting
    Flat-bed knitting
Pig iron
Rolling-mill machinery
Toilet preparations
Corsets (not silk)
Raisins
Apples, other than dried
Apricots, in sirup
Peaches, in sirup
Pears, in sirup
Vulcanized fiber
Internal-combustion engines, stationary
Power pumps
Rubber sheeting, textile backed
Women's and girls' outer garments of cotton
Gramophones and records
Cases and parts for typewriters

Besides the enumerated reductions in the margins of preference the United Kingdom undertook to reduce the margins of preference on tobacco in the evene of reductions in the most-favored-nation rates. Imports of tobacco from tht United States in 1939 were valued at more than $36,000,000.

Senator MILLIKIN. Coming to the interpretative note on annex A, would you mind explaining that to us?

Mr. BROWN. There are a number of technical details to cover special cases. The first one deals with the case where a country has more than

one preferential rate in force for a given product and wants to change those two preferential rates into one preferential rate, provided that it is not less favorable to the suppliers of the product from other countries than the preferences in force prior to the substitution; and it provides for consultation.

The second one is to take care of the case which I have mentioned before where, under article III of this agreement a preferential internal tax would have to be changed into a preferential tariff. It says that doing that does not violate the agreement or the rule against preferences.

Senator MILLIKIN. That is where they will maintain a preference. They are entitled to a choice of how to express the preference. Is that what it comes to?

Mr. BROWN. It says that where the preference is in the form of a tax rather than in the form of a tariff, a change from tax to tariff, although it would technically increase the tariff preference would not be a violation of the agreement.

Senator MILLIKIN. It is intended, though to produce not more than the burden of the tax.

Mr. BROWN. That is correct; the same burden in a different form.

Senator MILLIKIN. I notice a paragraph there that states [reading]:

> 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 to 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 reason I invite your especial attention to that is that I understood you to say a while ago that all preferential agreements had been abolished between Canada and the mother country.

Mr. BROWN. No, sir, I said the contractual obligation of the United Kingdom and Canada to give preferential treatment to each other has been abolished. The preferences remain. But, for example, now if we negotiate with Canada for a reduction in the most-favored-nation rate, and Canada is willing to give it to us, they no longer have to ask British permission to do so; and vice versa.

Senator MILLIKIN. I see.

Mr. BROWN. This is a case where there are some preferential quotas on these items, and they want to change them into tariffs.

Senator MILLIKIN. Have any countries, where that contractual basis has disappeared, acted independently in reduction or elimination of preference?

Mr. BROWN. No, sir. That agreement between Britain and Canada was signed on October 30, 1947, at the same time that this agreement was signed. I do not know of any unilateral action by either country under it.

Senator MILLIKIN. Mr. Chairman, may we have incorporated into the record, without reading, annex A, with the interpretative notes which we have been discussing, annex B, annex C, annex D, annex E, annex F, and annex G? They list the various countries that come under this preferential situation.

The CHAIRMAN. Those annexes from A to G, inclusive, will be incorporated in the record.

(The material referred to is as follows:)

GENERAL AGREEMENT ON TARIFFS AND TRADE

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 of 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 preferences 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.

The Domininions of India and Pakistan have not been mentioned separately in the above list since they had not come into existence as such on the base date of April 10, 1947.

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 [1] and other territories)
French West Africa
Cameroons under French Mandate [1]
French Somali Coast and Dependencies
French Establishments in India [1]
French Establishments in Oceania
French Establishments in the Condominium of the New Hebrides [1]
Guadeloupe and Dependencies
French Guiana
Indo-China
Madagascar and Dependencies
Morocco (French zone) [1]
Martinique
New Caledonia and Dependencies
Réunion
Saint-Pierre and Miquelon
Togo under French Mandate [1]
Tunisia

[1] For imports into Metropolitan France and territories of the French Union.

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 NEIGHBORING 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

Senator MILLIKIN. Now we come to annex H, which has to do with percentage shares of total external trade to be used for the purpose of making the determination referred to in article XXVI. What is that determination, Mr. Brown?

Mr. BROWN. That determination is the determination of when countries representing 85 percent of the trade of the parties to the agreement have deposited their instruments of formal acceptance.

Senator MILLIKIN. What is the purpose of stating the percentage shares of total external trade of the various contracting parties?

Mr. BROWN. Article XXVI says that, when parties representing 85 percent of the trade of the group have formally accepted the agree-

ment, it then comes formally into effect. This is just a way in which you take the different instruments of acceptance and look at the percentage of trade represented and add them all up; and, when you get to 85, you declare the agreement in effect.

Senator MILLIKIN. Mr. Chairman, I ask than annex H be put into the record.

The CHAIRMAN. That will be inserted.

(The matter referred to is as follows:)

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)

	Percentage
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	[1] 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

[1] 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.

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.

Senator MILLIKIN. In that connection, I have calculated the relative percentage shares of the countries which are listed in relation to the percentage assigned to the United States.

The United States has eight times the total external trade of Australia.

It has 2.3 times the total trade of Belgium-Luxemburg-Netherlands.

It has 9 times the total trade of Brazil.

It has 37 times the trade of Burma.

It has 3.5 times the trade of Canada.

It has 42 times the trade of Ceylon.

It has 42 times the trade of Chile.

It has 9 times the trade of Cuba.

It has 18 times the trade of Czechoslovakia.

It has 2.7 times the trade of the French Union.

It has 7.6 times the trade of Pakistan.

It has 21 times the trade of New Zealand.

It has 17 times the trade of Norway.

It has 84 times the trade of Southern Rhodesia.

It has 250 times the trade of the Lebano-Syrian customs union.
It has 11 times the trade of the Union of South Africa.
It has slightly less than the trade of the United Kingdom.
That, Mr. Chairman, I submit has relevance to the one-vote per-country plan of this agreement.

I am just about to wind up, Senator, and I would like this privilege, if I may have it.

Between now and next Tuesday, I shall examine the record and there may be some requests that I may have to make of the State Department for data. Could I feel at liberty to get in touch with Mr. Brown and make the request?

The CHAIRMAN. Oh, yes; and Mr. Brown might wish to make some corrections.

Mr. BROWN. I would like to say, Mr. Chairman, that there is one memorandum that I would like to submit on the legal point raised by Senator Millikin, which is not yet ready.

The CHAIRMAN. Can you have that in by Tuesday morning?

Mr. BROWN. Yes, sir.

The CHAIRMAN. And you may wish to make some corrections or additions to the record.

Mr. BROWN. Thank you, sir. I have already read the record up to yesterday's hearing. It is correct.

Senator MILLIKIN. Do you now have that memo that you referred to?

Mr. BROWN. No, sir. I did not have a chance to review it, but I will do so this afternoon.

Senator MILLIKIN. Would you be good enough to send it over to the office after you have reviewed it? Because I would like to review it between now and Tuesday.

Mr. BROWN. Yes, sir. It deals with the case in which the Congress authorized an executive agreement, and pursuant to that agreement the President entered into a multilateral executive agreement with a number of countries, which agreement provided for its modification, in some cases by a majority vote, in some cases by a two-thirds vote, in other cases by a unanimous vote, and also provided for arbitration of its provisions. That agreement was tested in the courts and sustained.

Senator MILLIKIN. Will you let me have that before the day is over? I would like to do a little skull work on it.

Mr. BROWN. I will see if I can get a stenographer. I am not sure that I can.

Senator MILLIKIN. Do you wish to make a mystery of the case, or can you give me the case now?

Mr. BROWN. I could probably telephone it to you, sir.

Senator MILLIKIN. If you could do that, I can make my own analysis of it.

Mr. BROWN. The particular point which you had in mind was not the basis of challenge.

Senator MILLIKIN. If the case is along the line that you have mentioned, and I am assuming from your own analysis that it is, I think it would be interesting.

Mr. BROWN. It is. I am not submitting it as a decision of the court on the particular issue that you raise, but I am submitting it

as a decision of the court which sustained an agreement of the type we have been discussing.

Senator MILLIKIN. I think that would be an interesting exhibit. If you will, please, telephone my office and give us the citation.

Mr. BROWN. Yes, sir.

The CHAIRMAN. If you have the citation here, you might leave it with Senator Millikin at the conclusion of the hearing.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. There is what is referred to here as the "final note." [Reading:]

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.

Can you give us any information as to whether trade negotiations are on so far as western Germany and Japan are concerned?

Mr. BROWN. There are none, sir. The issue here was simply to make it plain that this agreement did not apply to the military occupation.

Senator MILLIKIN. What do you call those who represent the nations under this agreement? Are they delegates, or what is their official title?

Mr. BROWN. They do not have any official title. They just go to the meetings.

Senator MILLIKIN. Will you give me a list of the representatives of the nations under this agreement? Do they have alternates?

Mr. BROWN. There is no representative to the contracting parties from any contracting party.

Senator MILLIKIN. How is it run? How do you establish who shall represent the country?

Mr. BROWN. For example, we are going to have a meeting at Annecy next April. We make up a delegation that is competent to deal with the problems that are going to come up there, and the President appoints them, and they go.

Senator MILLIKIN. They will be appointed by the President, and I assume by some competent authority in the Department.

Mr. BROWN. You might have another meeting that was necessary because a particular claim came up, and quite a different group of people would go. But there is no person like Senator Austin, who is accredited to this group.

Senator MILLIKIN. Who represented us at the last meeting?

Mr. BROWN. I think we had about 15 people there from different departments of the Government.

Senator MILLIKIN. I am talking about the general agreement.

Mr. BROWN. Oh! Mr. Clayton was the chairman of the delegation. Mr. Wilcox was the vice chairman. We had over a hundred other people.

Senator MILLIKIN. Will you give us that list? I would like very much to have that. I am talking now about the list of those who represented the United States at that meeting in connection with the general agreement.

The CHAIRMAN. You are speaking of the Geneva meeting?

Mr. BROWN. The Geneva meeting, at which this agreement was negotiated?

Senator MILLIKIN. Yes.

Mr. BROWN. That is in the record of last year's hearings.

Senator MILLIKIN. About the subsequent meetings, where you made amendments?

Mr. BROWN. There were different groups in each case.

Senator MILLIKIN. When was the last meeting where you made amendments?

Mr. BROWN. The second meeting at Geneva, in the late summer of 1948.

Senator MILLIKIN. Can you give us a list of those who represented us at that meeting?

Mr. BROWN. Certainly.

Senator MILLIKIN. Will you do that, please?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Do you have in convenient form a list of those who represented the other countries?

Mr. BROWN. Yes, sir.

(The following information was subsequently supplied:)

LIST OF DELEGATES to the second session of the Contracting Parties to the General Agreement on Tariffs and Trade, Geneva, August–September, 1948.

Australia

Mr. J. A. Tonkin, Leader.
Mr. J. Fletcher.
Mr. J. Russell.
Mr. C. L. S. Hewitt.
Mr. G. H. W. Smith.
Miss Judith Bearup.
Miss N. C. Stack.
Miss Mary Heffer.

Belgium

M. Max Suetens, President, Director General of Foreign Commerce.
M. Georges Cassiers, Delegate, Ministry of Foreign Affairs and Commerce.
M. Emile Indekeu, Alternate, Ministry of Foreign Affairs and Commerce.
Mlle. Jeanne Delfosse.

Brazil

Ambassador Joao Carlos Muniz, Chief Delegate, Chief Delegate of Brazil to the United Nations.
M. Eduardo Lopes Rodrigues, Delegate.
M. Alberto de Oliveira Campos, Advisor.
Mlle. Albertina de Castro Menozes.
M. Oswaldo Bahn Franco.
Mlle. Maria Flora Pento Ayres.

Burma

Mr. Saw Ohn Tin.

Canada

Hon. L. D. Wilgress, Canadian Ambassador to Switzerland, Chairman.
Mr. L. E. Couillard, Department of Trade and Commerce.
Mr. S. S. Reisman, Department of Finance.
Miss Marion Henson, secretary to Mr. Wilgress.

Ceylon

Sir Oliver Goonetilleke.
Mr. B. Mahadeva.
Miss J. B. Green, stenographer.
Mrs. D. J. Gazdar, stenographer.

China

Dr. Wansz King, Leader.
Mr. Chi Chu, Delegate.
Mr. D. K. Lieu, Delegate.
Mr. S. H. Hsu, Advisor.
Mr. S. M. Kao, Advisor.
Mr. C. L. Pang, secretary.
Miss Gloria Rosen, stenographer.

Cuba

Mr. Sergio Clark.
Dr. Gustavo Gutierrez.
Mr. Rufo Lopez Fresquet.
Mr. Emilio Pando.
Mr. Mario Valdes Mora.
Mr. Ruban Ortiz Lamadrid
Mr. Andres Vargas Gomez.

Czechoslovakia

Dr. Zdenek Augenthaler, Envoy Extraordinary and Minister Plenipotentiary, Chairman.
Dr. Otto Benes, Counsellor at Ministry of Finance.
Ing. Stefan Dvorsky, Czechoslovak Commercial Attaché at Berne.
Miss Helova, stenographer.

France

M. Andre Philip.

Advisors

M. Ernest Lecuyer, Foreign Office.
M. Gérard Amanrich.

Secretariat

Mlle. Elisabeth Bouché.

India

Sir Raghaven Pillai, KCI, CBE, ICS, Chargé d'Affaires, Paris, representative.
Mr. Chandulal Chunilal Desai, CIE, ICS, Secretary to the Government of India, Ministry of Commerce, alternate representative.
Mr. B. N. Adarkar, M.B.E., Deputy Economic Advisor to the Government of India, alternate representative.
Major H. H. the Maharaja of Alirajpur, secretary
Mlle. Edith Bignens.
M. John Lagnado.

Lebanon

M. Moussa Mobarak, President.
M. Antoine Moussalli.

Luxembourg

M. Kremer.

Netherlands

Dr. A. B. Speekenbrink, Director General for Foreign Economic Relations, Ministry for Economic Affairs, Chairman.
Professor Dr. E. de Vries, Special Advisor for Economic Affairs, Ministry for Overseas Territories, Deputy Chairman.
Dr. G. A. Lamsvelt, Advisor.
Dr. J. Boekstal, secretary.

New Zealand

Mr. L. S. Nicol, Official Representative of the New Zealand Customs Department in London.

Norway

Mr. Arne Skaug, Under-Secretary of State, Norwegian Ministry of Foreign Affairs, Chairman of the Delegation.
Mr. John Melander, Commercial Counsellor of the Norwegian Embassy in London.

Mr. Torfinn Oftedal, Chief of Division, Norwegian Ministry of Foreign Affairs.
Miss Judith Johansen, stenographer.

Pakistan

Mr. S. A. Hasnie, Leader.
Mr. M. Ismail.
Dr. I. H. Usmanie.

Southern Rhodesia

None.

Syria

S. E. M. Hassan Djebbara, Ministry of Finance.
M. Izzat Traboulsi.
M. Rafik Sioufi.

South Africa

Dr. A. J. Norval, Leader.
Dr. L. C. Steyn, Alternate Delegate.
Mr. A. J. Beyleveld, Alternate Delegate.
Dr. W. C. Naude, Alternate Delegate.
Mr. G. J. F. Steyn, Alternate Delegate.
Mr. J. S. F. Botha, Secretary of Delegation.
Miss M. E. Bohn, typist.

United Kingdom

Mr. R. J. Schackle, C. M. G., Board of Trade, Delegate.
Mr. A. R. Ashford, Customs and Excise, Advisor.
Mr. G. C. Ager, M. B. E., Board of Trade, Advisor.
Miss N. K. Fisher, Board of Trade, Advisor.
Mr. I. F. S. Vincent, M. B. E., Foreign Office, Advisor.
Mr. P. Addison, Foreign Office, Advisor.
Miss E. L. Smart, Treasury, Advisor.

United States

Mr. Leroy D. Stinebower, Chairman.
Mr. John Leddy, Alternate.
Mr. Carl Corse, Advisor.
Mr. Walter Hollis, Advisor.
Mr. William Marbury, Advisor.
Miss Louise Welch, stenographer.
Miss Lucy House, stenographer.

Senator MILLIKIN. Who keeps the minutes of these deliberations?

Mr. BROWN. They are in different forms. The meetings of the whole group are taken by the secretariat people. There are translators and the usual stenographic assistants, and on any meetings at which formal business is done a record is kept. In the actual negotiations, where one team of negotiators is sitting down with another team, they decide how much record they want to keep of the arguments, and maybe the secretary of the team will keep it. It varies in different cases.

Senator MILLIKIN. Then are those minutes finally focused at some central place?

Mr. BROWN. No, sir.

Senator MILLIKIN. Do we have the minutes of our own negotiating teams?

Mr. BROWN. Oh, yes.

Senator MILLIKIN. We have those. Now let us take the second meeting, having to do with the general agreement. That was the second meeting at Geneva?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Was there not a secretary for that meeting?

Mr. BROWN. Yes; there was a central record kept.

Senator MILLIKIN. How was the secretary appointed?

Mr. BROWN. The United Nations provided him.

Senator MILLIKIN. The United Nations provided the secretary?

Mr. BROWN. Yes, sir. We used the facilities of the United Nations for all of these meetings.

Senator MILLIKIN. So that as of the present time you have no formal organization under this?

Mr. BROWN. No, sir.

Senator MILLIKIN. You do not have a chairman of the representatives of the contracting parties?

Mr. BROWN. We have a chairman; yes.

Senator MILLIKIN. Who is he?

Mr. BROWN. He is Mr. Dana Wilgress, of Canada.

Senator MILLIKIN. How was he made chairman?

Mr. BROWN. He was elected.

Senator MILLIKIN. By the representatives of the various countries?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Do you have a vice chairman?

Mr. BROWN. I am told we do. It is Mr. Speekenbrink from Holland.

Senator MILLIKIN. The secretary, you say, was provided by the United Nations?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. The secretary, I assume, kept the over-all minutes of the proceedings.

Mr. BROWN. Yes, sir. I think he would have copies of the minutes of all the regular meetings.

Senator MILLIKIN. Did the United Nations pay the expense of the record-keeping, the secretarial work, and that sort of thing?

Mr. BROWN. Yes; up to date.

Senator MILLIKIN. Each country paid the expenses of its own delegates?

Mr. BROWN. Yes. I think from now on each country will pay part of the expenses of any secretarial work also.

Senator MILLIKIN. That is all that occurs to me today.

Mr. Chairman, I suggest that we meet at 10 o'clock on Tuesday morning.

The CHAIRMAN. Do you wish to have the representative of the fund at that time?

Senator MILLIKIN. I am thinking of asking the representative of the fund, Mr. Southard, to come, and he will be accompanied by others.

Would it be possible for you to be here, Mr. Brown?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. One other thing, Mr. Brown. How did we leave the matter of the list of the United Nations delegates going to Annecy in April?

Mr. BROWN. We do not know who they are yet, Senator Millikin. We do not know who is coming from the other agencies; and, of course, the President has to appoint them. We have a pretty good idea of most of the people who will go from our Department, and we hope that all the members of the Trade Agreements Committee will go. But we

have not been notified by the other agencies as to whom they are going to send.

However, I would say that probably the majority of the people who will go will be people who participated in the Geneva negotiations; and if they are not those identical individuals, they will be individuals occupying comparable positions in the different departments involved.

The CHAIRMAN. Thank you very much, Mr. Brown.

We shall recess until 10 o'clock on Tuesday.

(Whereupon, at 11:05 a. m., the committee recessed until Tuesday, March 8, 1949, at 10 a. m.)

EXTENSION OF RECIPROCAL TRADE AGREEMENTS ACT

TUESDAY, MARCH 8, 1949

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to adjournment, in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senators George (chairman), Millikin, Butler, and Brewster.

The CHAIRMAN. The committee will come to order.

Mr. Southard of the International Monetary Fund is here this morning to testify.

Will you have a seat, Mr. Southard? Do you have some members of your staff with you?

STATEMENT OF FRANK A. SOUTHARD, JR., UNITED STATES EXECUTIVE DIRECTOR, INTERNATIONAL MONETARY FUND, AND SPECIAL ASSISTANT TO THE SECRETARY OF THE TREASURY; ACCOMPANIED BY HENRY J. TASCA, ALTERNATE UNITED STATES DIRECTOR, INTERNATIONAL MONETARY FUND, AND CHARLES R. McNEILL AND GEORGE BRONC, OFFICE OF THE GENERAL COUNSEL, TREASURY DEPARTMENT

Mr. SOUTHARD. Yes, Mr. Chairman. I have with me Mr. Henry J. Tasca, alternate United States Director of the fund, and a consultant in the Treasury Department, and Messrs. Charles R. McNeill and George Bronz, members of the staff of the general counsel of the Treasury.

The CHAIRMAN. We will be very glad to hear from you.

The general inquiry, I suppose, Senator Millikin, relates to the fund's function in fixing these foreign exchanges and valuations as to foreign countries.

If you wish to ask Mr. Southard questions to begin with, you may do so.

Senator MILLIKIN. Thank you, Mr. Chairman.

Mr. Southard, the general agreement on tariffs and trade, the so-called GATT, contains a number of provisions respecting exchange and respecting the relations of GATT to the fund. I shall not go through all of those references, but article XV of GATT entitled "Exchange Arrangements," is directed squarely to the subject. Let me get it into the record. [Reading:]

1. The Contracting Parties shall seek cooperation with the International Monetary Fund to the end that the Contracting Parties and the Fund may

pursue a coordinated 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.

The contracting parties, you will recall, are the members of the agreement.

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 reserves, 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 change 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 the Agreement will not be frustrated as a result of action in exchange 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. 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.

Mr. Southard, the other day we put into the record what purported to be an informal exchange of correspondence, from which it appears that the fund has accepted the duties imposed upon it by GATT. Is that correct?

Mr. SOUTHARD. Yes, Senator. That is correct. The executive board of the International Monetary Fund, in its Decision No.

363–1, reached this decision, which I would like to read into the record, if I may.

Senator MILLIKIN. If you please.

Mr. SOUTHARD (reading):

> The Fund agrees that the informal arrangement of an administrative character proposed by the Chairman of the Contracting Parties constitutes a satisfactory basis for consultation and cooperation between the Fund and the Contracting Parties to the General Agreement on Tariffs and Trade (Executive Board Document No. 316, Supplement 2). The Managing Director is authorized to agree to that arrangement on behalf of the Fund, and the text of the proposed reply to the Contracting Parties is agreed.

Senator, so far as the Directors of the Fund are concerned, we would be perfectly willing to have put in the record the actual exchange of correspondence.

Senator MILLIKIN. May I interrupt you for just one moment?

Mr. Brown, we are speaking of the correspondence which sets up the informal understandings between GATT and the fund in exchange matters. Mr. Southard has just stated that he is willing to put those documents into the record. It is my understanding that we already have them in the record. Are there any documents in addition that should be put in?

Mr. BROWN (Winthrop G. Brown, Director, Office of International Trade Policy, Department of State). Mr. Southard is referring to the letters which we provided, which have been classified as restricted by the contracting parties, and which we had planned to get released so that they may be made public.

Senator MILLIKIN. Mr. Chairman, I request that that correspondence be put in the record at this point.

The CHAIRMAN. Has it been released, Mr. Brown?

Mr. BROWN. No, sir. We have not been able to get permission yet. But I am sure we will.

Mr. SOUTHARD. So far as the fund is concerned, Senator, you may put it into the record. We have no objection. It is GATT, I believe, that has not yet been heard from.

Mr. BROWN. I think it is a mere formality, Senator, but it would be a little discourteous, I think, to publish them without the agreement of the other parties.

The CHAIRMAN. As soon as you have the agreement, will you please advise the committee?

Mr. BROWN. Yes, sir.

The CHAIRMAN. So far as the fund is concerned, there will be no objection?

Mr. SOUTHARD. That is right.

Senator MILLIKIN. Is it your understanding, Mr. Southard, that the agreement represented by that correspondence, or otherwise, represents in full the acceptance of the provisions of GATT, so far as the relations between GATT and the fund are concerned?

Mr. SOUTHARD. Yes, sir.

Senator MILLIKIN. What is your authority for entering that agreement?

Mr. SOUTHARD. Senator, I have a short statement, which I would like to read, if I may, to make this more precise.

The fund was requested to consult with a group of countries, mostly members of the fund, on questions which are within the scope of the

fund's activities. The countries had entered into a trade agreement called GATT. The problems on which consultation was agreed upon are of such nature that the fund would have consulted on them with the countries concerned even without such an agreement as the GATT represents.

As far as the four nonmembers of the fund are concerned, the objective of the fund to promote international monetary cooperation and to provide a machinery for consultation and collaboration on international monetary problems justifies consultation also in respect to monetary problems of nonmembers.

The pursuit of the fund's objectives requires that the fund coordinate its policy with regard to exchange questions with the policy concerning trade measures of its members whether or not these members act in joint capacity.

All problems covered by the consultative procedure with the contracting parties relate to balances of payments, monetary reserves, and foreign exchange arrangements. The fund is primarily concerned with these topics.

That, Senator, is the general reply that I would give, from the viewpoint of the Fund.

Senator MILLIKIN. Is your relationship limited to consultation?

Mr. SOUTHARD. It is limited, as article XV indicates, to consultation which will involve the examination of facts and the reporting to the GATT of the fund's judgment with respect to those facts in the given case.

Senator MILLIKIN. I would suggest to you also that it involves decision and the determination of policy matters. Let me read to you again, from article XV, paragraph 2 [reading]:

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

Did you intend that your agreement should go to matters of that kind?

Mr. SOUTHARD. Yes. The fund would intend to operate within the framework, the words and the spirit of those words. The fund typically, in its own relations with the member countries, quite apart from GATT—when a member country, for example, may want to change an exchange rate, or when it wants to draw on the fund, or when it wants to modify an exchange procedure—finds itself invariably, or almost invariably, concerned with these determinations of balance-of-payments trends, the trends in the reserves, and the conclusions with respect to the country's state of affairs, which those would involve.

Here, where the fund is requested in behalf of a group of countries to make such determinations, it will follow much the same procedure.

Senator MILLIKIN. Do you feel that you have authority to do that?

Mr. SOUTHARD. Yes, Senator. I have some lawyers who are far more familiar than I am with the precise details, but I would say "Yes."

Senator MILLIKIN. If they could briefly refer to the provisions of the fund agreement which authorize the type of relationship contemplated by GATT, it would be appreciated.

Mr. SOUTHARD. I have a statement that refers more specifically, Senator, to authorities, powers, and so on, which I can read into the record.

Senator MILLIKIN. I believe it would be a good idea to get it in.

Senator Brewster, did you have a question?

Senator BREWSTER. I do not know whether this is the appropriate or relevant time, and perhaps you have gone into it, but I have been considerably in recent days, in this South African gold deal.

Does that have a relevancy to the discussions and the arrangements which are here contemplated?

Mr. SOUTHARD. With respect to GATT?

Senator Brewster. No, this would be with relation to the exchange which was mentioned in some of the sections which have been read.

Mr. SOUTHARD. Senator, if I understand your question, the fund's authority to deal with South Africa in matters of South Africa's gold policy is carried on quite outside of this provision of GATT.

Senator BREWSTER. I understand that. I was referring to the other provisions he read, about the exchange, and so on. How far have you gone in dealing with that?

Mr. SOUTHARD. In dealing with the legal structure?

Senator BREWSTER. No, the specific case of the sale of South African gold in London at $7 above the price.

Mr. SOUTHARD. The fund has, in several press releases, which I have not brought with me, but which I would be glad to provide for the record, indicated very sharply that its view is that the South African contracts to sell gold at a premium price, albeit for nonmonetary purposes——

Senator BREWSTER. Alleged.

Mr. SOUTHARD. Stated nonmonetary purposes—do not appear at the moment to be surrounded with such safeguards as the fund could approve. The fund has accordingly asked South Africa, and South Africa in its last statement, which it published, has agreed—maybe not with enthusiasm, but it has agreed—to enter into no further arrangements after the expiration of this one very short contract, involving 100,000 ounces over a period of 8 weeks, as I recall, until there can be a more thorough review with the fund of the nature of these transactions.

The fund's policy on premium gold is clear and well known. The fund is opposed to members' engaging in premium gold transactions, even where the gold is intended for nonmonetary purposes, unless the safeguards surrounding such use are very thorough. In fact, I would say, as an American official, unless they are roughly comparable to our own.

The CHAIRMAN. Then the South African gold question is considered wholly aside and apart from GATT?

Mr. SOUTHARD. That is right, Mr. Chairman.

The CHAIRMAN. It has nothing to do with GATT?

Mr. SOUTHARD. That is right, sir.

Senator BREWSTER. I understand that. I was referring to the other provision. But how are you going to discriminate against Canada or the United States or other countries that might also want to enter into a little transaction with a hundred thousand ounces?

Mr. SOUTHARD. The fund hopes very much not to discriminate.

Senator BREWSTER. Then you will have to allow every country to sell a hundred thousand ounces, if you do not discriminate.

Mr. SOUTHARD. I do not want to have to feel for careful words, Senator. But the problem in front of the fund in this instance was that the contract had already been entered into. There had been some consultation earlier.

Senator BREWSTER. But at no time did the fund indicate that it would or could approve of such a transaction.

Mr. SOUTHARD. That is right. South Africa said that they had interpreted a message of the 5th of October by the fund, if I remember the date correctly, as indicating that if there were proper safeguards, the sale of gold for nonmonetary purposes, bona fide nonmonetary purposes, might be entered into at other than the official South African price. South Africa said they felt the safeguards were adequate and they had therefore entered into the contract. At that point it would have been a matter of, if I could speak as a layman, virtually, here, obliging the country to break the contract—which was of short life, involving a small amount—or to complete the contract and to call it off after that.

Senator BREWSTER. If this were a bunch of boys playing marbles, one could understnand. However, in dealing with matters of this character and importance, and with the character of men who ordinarily handle financial transactions of this magnitude, is it not a trifle naive on the part of everyone to assume that South Africa did not realize fully what they were doing?

Mr. SOUTHARD. Senator, that is a rather difficult question for me to respond to in a public record, since it obliges me to speculate on the motives of another government.

Senator BREWSTER. I said "naive"; naive on the part of somebody, the fund or the people. I say this because in this whole matter of international relationships we have in several other fields now the question of exceptions and discriminations and so on. In fact, the whole fundamental approach here is the equity of the arrangements. I think that unless the international authorities that we are setting up in various fields exhibit a little more steel in their make up, they will not last very long. Because I do not see how you are going to say to Canada or the United States that we cannot be similarly confident that our arrangements are adequate without consulting the fund.

Mr. SOUTHARD. Senator, I agree with you that the international organizations in this field must have steel in their backbone and in their voice. I believe that in the last 12 months, or in the last 18 months, really, during which I have followed the fund's efforts in the field of gold policy, the fund has spoken with decision and with determination. You are aware, of course, that the pressures on the part of gold-mining countries to obtain some access to these world premiums that exist in many parts of the world are very strong. The fund was held to a consistent policy, a policy which the United States Government has held to. In its interchanges with South Africa, the fund has spoken, I believe, with decision, and I believe one could say that the tone of the last reply of the South African Government, which was released to the press, indicates that South Africa is under no illusions as to the determination with which the fund spoke.

Senator BREWSTER. Is Russia a member of the fund?

Mr. SOUTHARD. It is not, sir.

Senator BREWSTER. So they are at liberty to sell gold as they see fit?

Mr. SOUTHARD. That is right.

Senator BREWSTER. To take advantage of this premium market as they see fit, without accountability to anyone?

Mr. SOUTHARD. That is correct.

Senator BREWSTER. I would suggest that perhaps this interpolation might be put at the end of your queries regarding GATT, Senator Millikin, as it is not, as I understand it, particularly related to that.

Senator MILLIKIN. I intended to come to that later, Senator, but I think it is perfectly appropriate to have it at this point.

Senator BREWSTER. I think it would also be well to have the releases for the record.

Mr. SOUTHARD. Would you like the interchanges? We will send the full set-up and you can put them in the record as you please, Mr. Chairman.

Senator MILLIKIN. I think that has direct relevance, Mr. Chairman, to some of the later things that will be developed.

The CHAIRMAN. Very well.

(The material is as follows:)

INTERNATIONAL MONETARY FUND,
March 8, 1949.

To: Clerk, Senate Finance Committee.
From: Frank A. Southard, Jr.

I attach hereto press releases of the International Monetary Fund relating to the South African gold matter which I promised to send for the committee record at today's hearings. I also include two press statements of the Government of South Africa.

FRANK A. SOUTHARD, Jr.

INTERNATIONAL MONETARY FUND

Press release No. 67

For immediate release
THURSDAY, FEBRUARY 10, 1949.

Following certain news reports about a gold sale at premium prices made by South Africa, the International Monetary Fund wishes to make it clear that it has never approved any specific gold sales at a premium price. The fund was consulted 4 months ago by the South African Government with regard to a proposed plan to sell semiprocessed gold at premium prices for industrial, professional, or artistic purposes. The fund advised the South African Government that it was disturbed by the fear that the trade in semiprocessed gold which is contemplated by the South African Government would involve considerable sales of gold at premium prices for other than legitimate industrial, professional, or artistic purposes. It felt that this would almost certainly be the consequence if the proposed transactions are to be on a scale sufficient to insure an appreciable profit to gold producers.

"In these circumstances," the fund added, "the fund believes that South Africa should not engage in the proposed plan unless it is satisfied that it can take effective measures to insure that gold sold under the plan will in fact be used for bona fide and customary industrial, professional, or artistic purposes."

The South African Government informed the fund over this past week end that it had agreed to sell a quantity of semiprocessed gold at a premium price. In the light of the information submitted to the fund by South Africa, including that on the prices and quantities involved, the fund has found it necessary to get in touch with the South African Government with a view, particularly, to determining whether the safeguards adopted are, in the fund's opinion, adequate to insure that any gold sold will, in fact, be used for bona fide and customary industrial, professional, and artistic purposes.

[Corrected]

INTERNATIONAL MONETARY FUND

Press release No. 68

For immediate release
FRIDAY, FEBRUARY 25, 1949.

The fund has been in touch with South Africa in connection with its recently announced proposal to sell at premium prices abroad, as an experiment, 100,000 ounces of semiprocessed gold for industrial and similar purposes, and has noted the statement made yesterday by Mr. Havenga, Minister of Finance of South Africa. This statement involved two main points: first, an explanation of the South African position on sales of semiprocessed gold, and, second, comments on the $35-an-ounce price for gold. The fund wishes to make its position clear on both these points.

The fund's policy on such external sales has been that they are allowable only if adequate safeguards exist to ensure that the gold is, in fact, used for bona fide and customary artistic, industrial or professional purposes and not for speculation and hoarding, and that it is imported in accordance with the gold or exchange laws of the countries concerned.

From the communications received from South Africa and the statement made yesterday by Mr. Havenga, the fund is not satisfied that adequate safeguards would exist in the recently initiated transactions. Accordingly, the fund is continuing its conversations with South Africa regarding the establishment of adequate safeguards. South Africa has also been advised that it will be expected to consult the fund prior to entering into any negotiation for similar transactions in the future, and the fund notes in this connection Mr. Havenga's statement that South Africa will continue to honor its obligations to the fund in full.

The fund reemphasises that there has been no approval of this specific transaction nor has there been any change in its policy with regard to external sales of gold at premium prices as announced in June 1947. It will be recalled that in its statement of June 1947 the fund called attention to the fact that external sales at premium prices involve a loss to monetary reserves, since much of the gold goes into private hoards rather than into central holdings. The fund's main concern in this matter has been to see that its point of view is observed in any external transactions in gold.

In this connection, the fund would again point out the distinction to be drawn between the gold sales at premium prices taking place within a member country, on the one hand, and, on the other, the type of sale represented by the current South African transaction which involves gold movements across national boundaries. Internal sales of gold have not been objected to by the fund.

The fund advised South Africa in October 1948 of the desirability of adopting safeguards on external sales of gold along the lines of those in effect in the United States and the United Kingdom. In order to minimize the likelihood of exports of semiprocessed gold finding their way into undesirable channels, the United States regulations require that the exporter furnish various categories of information concerning the bona fide character of the use and disposition of the gold, and that the proposed importation and payment therefor is authorized or licensed under the laws of the country or countries of import.

Mr. Havenga has stressed that dealings in semiprocessed or fully fabricated gold are replacing dealings in the form of coin or bar gold intended to constitute gold hoards. It is precisely such exports for hoarding of gold that the fund wanted to prevent when it asked South Africa to ensure that such gold was in fact used for bona fide and customary artistic, industrial, or professional purposes.

As stated previously, it is the opinion of the fund that the existence of markets which are prepared to satisfy all verifiably genuine international demands for nonmonetary gold at approximtely $35 per fine ounce is strong evidence that the ultimate disposition of gold purchased at a substantial premium would not be for bona fide and customary industrial, professional, or artistic uses.

The fund strongly objects to the statements of Mr. Havenga with reference to the present price of gold.

The fund regrets that the Minister of Finance of South Africa has chosen to make public declarations which can only tend to undermine the exchange policies which all members of the fund have undertaken to support.

LEGATION OF THE UNION OF SOUTH AFRICA,
Washington 8, D. C., February 24, 1949.

The MANAGING DIRECTOR, INTERNATIONAL MONETARY FUND,
Washington, D. C.

DEAR SIR: With reference to your letter of the 23d instant, I enclose herewith a copy of a statement made by the Minister of Finance in Parliament today.

Yours very truly,

W. D. VAN-SCHALKWYK,
Secretary of Legation.

STATEMENT BY THE MINISTER OF FINANCE IN PARLIAMENT ON THE QUESTION OF THE SALE OF GOLD

With the permission of the House, I would like to take this opportunity of dealing further with the question of the sale of gold. There has been considerable discussion in the House and outside of this subject, following on the statement I made in introducing the part appropriation. There have also been press telegrams which were mostly based on incomplete information and gave a distorted picture of the situation. The importance of this subject to the Union and the importance of any action which the biggest gold producer takes on this matter will, I think, be accepted as justification for my dealing specially with it before the House goes into recess.

In my former statement, I made it clear that the sales transaction which I then announced was a closely controlled experiment in this field, a field from which the Union, in contrast with many other countries, some of them members of the International Monetary Fund, had hitherto stood aloof. In reply to a statement alleged to have been made by the Prime Minister of Australia that the Union had entered the open market in gold, I made it perfectly clear that the Union had not done so. I would like to add, Mr. Speaker, that Mr. Chifley has since sent me the text of his statement. It is perfectly clear from that that his statement was completely misrepresented in the press report. He stressed that the sale was for trade purposes and made no reference whatever to the open market.

I wish to repeat here, Mr. Speaker, that the Union does not intend to enter the open market. I wish to state, however, that there is a market, other than the monetary market, which the Union has every right to enter, and that we do not propose to hold aloof from that market. I refer to the extensive and growing market for fully fabricated gold.

Now, I want to admit frankly that the fund does not like international transactions in gold at premium prices. Its public statement on this subject, dated June 18, 1947, says, inter alia; "The fund strongly deprecates international transactions in gold at premium prices and recommends that all of its members take effective action to prevent such transactions in gold with other countries or with the nationals of other countries."

Now I wish to make two points about this statement.

The first is that the Union has in fact taken effective action in the past to prevent such transactions. As it has a complete control of newly mined gold, its prohibition has been complete. Its prohibitions have now and then been evaded by smugglers who got away small quantities from time to time. Police action has therefore been made more stringent to limit the amount of gold which could get into the hands of would-be smugglers, and customs supervision has recaptured gold in the process of smuggling. These captures have deservedly benefited the Treasury.

I would add this, however, that the scrupulous way in which the chief gold producer has honored its obligations in this regard has had no effect on the immense volume of international trading in gold at premium prices. This goes on, and a great deal of it goes on in the territories of countries which are, like ourselves, members of the International Monetary Fund.

I repeat, Mr. Speaker, that we shall continue to honor our obligations to the fund to the full. Our right to sell in the industrial market is generally admitted, as I shall show presently. When these enormous transactions are taking place at premium prices, neither the fund nor any other body can reasonably expect us to stand aloof from that market and, as we say in Afrikaans, "te verwag dat ons ander sal toelaat om die kaas van ons brood af te eet nie."

I come to my second point, which relates to the market in gold at a premium price which South Africa may legitimately enter. In view of the importance of this matter, I want to quote to the House the words of a resolution of the executive board of the fund which frankly admits the right of South Africa to this market.

The resolution was taken in October last year when the Governor of the Reserve Bank, on behalf of the Treasury, laid before the board the main outlines of the plan under which, as I explained to the House recently, the Treasury has sold 100,000 ounces of gold to Messrs. Mocatta and Goldsmid.

After stating that members of the executive board (I quote) "were disturbed by the fear that the trade in semiprocessed gold which is contemplated by your Government would involve considerable sales of gold at premium prices for other than legitimate industrial, professional, or artistic purposes," this resolution goes on to say: "In these circumstances, the fund believes that South Africa should not engage in the proposed plan unless it is satisfied that it can take effective measures to insure that gold sold under the plan will, in fact, be used for bona fide and customary industrial, professional, or artistic purposes."

The House will note two points from this extract. The first is that we must satisfy ourselves that we can take effective measures to insure that the gold sold will in fact be used for the purposes mentioned. The question whether measures taken are sufficient for this purpose is a question of judgment. The members of the executive board, it will be noted, are disturbed by the fear that the gold we have sold will, in fact, not be used for industrial purposes.

We have no reason to doubt the bona fides of the parties with which we are dealing nor their ability to carry out their undertakings up to the time when the gold is converted into fabricated articles and therefore ceases to be monetary gold.

The fund has not been able to produce any definite grounds for their fear that this sale will send gold at premium prices into monetary channels. They consider there are factors which lead them to believe that our safeguards are inadequate. As there has been reference in press telegrams to the fact that the fund has made representations to the Union, I think it would be as well to give the House the full text of the relevant portion of the fund's letter:

This reads as follows: "There are, however, several factors which lead the fund to believe that these safeguards have not been adequate to secure the fund's objectives, and that the reported transaction would not conform with the fund's gold policy as set out in its statement on transactions in gold at premium prices, of June 1947.

"It is the opinion of the fund that the existence of markets which are prepared to satisfy all verifiably genuine demands for nonmonetary gold at a small margin above $35 per fine ounce is strong evidence that the ultimate use of gold sold at a higher premium would not be industrial, professional, or artistic. Another factor that has led to this conclusion is that in certain countries which are significant sources of supply, and in which there is direct investigation into the ultimate consumption of gold to be exported, amounts supplied over extended periods are considerably smaller than those involved in the initial transaction which you describe. In this connection, your attention is drawn to that part of the fund's earlier letter in which the hope was expressed that South Africa would enforce measures as effective as those adopted by other members, such as the United States and United Kingdom."

I think the House will be struck by the vagueness of the case the Treasury is asked to answer. Nevertheless, we have answered it. We have indicated that we are enforcing measures at least as effective as those adopted by other members, such as the United States and United Kingdom, and have asked the fund specifically to state in what respect the safeguards adopted by these countries are more effective.

But we have gone further. We have furnished the fund with definite proof that there exists in the world a much bigger present demand for gold in fully fabricated form that the fund seems to imply in its expression "all verifiably genuine demands for nonmonetary gold." This information I shall presently give the House.

We have also informed the fund, as I told the House a fortnight ago, that we have all along regarded this sale as an experiment; that we would make no further sales during the period of 8 weeks covered by it, and that we would give serious attention to any further practicable precautions which they might be able to suggest during this period.

A further reply from the fund, which was received this morning, indicates that the fund still fears that the transactions in question are not in conformity with its statement on the sale of gold for export at premium prices.

It gives no further grounds for entertaining this fear but asks for a number of details about the business of the firms to which the gold will be resold. The Treasury will endeavor to obtain all the information the fund desires, the pur-

port of which seems to be to help the fund to follow up the various transactions in detail. We had, however, before the receipt of this reply, indicated to the fund that, while we had no reason to suspect that the undertakings given by the purchasers would not be honored, we would, of course, not continue to supply gold to any purchasers about whom the fund or any other party could produce proof that the gold was in fact not being used for the purposes for which it was resold to them.

All this refers to the sale of processed gold. I come now to the sale of fully fabricated gold articles.

This brings me to the second point arising from the quotation from the fund's letter. It says that South Africa should not engage in such transactions (I quote) "unless it is satisfied that it can take effective measures to ensure that gold sold under the plan will in fact be used for bona fide and customary industrial, professional, or artistic purposes."

The implication is abundantly clear that, where we can prove that the gold is used for those purposes, the fund can place no limitation on South Africa's right to sell such gold at a premium.

In fairness to the fund, it must be stated that it has never queried this right on the part of its members. It has no status in regard to the manufacturing industries of its members. It is, however, interested in monetary gold. It is its duty to see that the border line between the two is not transgressed. This function we fully acknowledge, and we shall do our share as members to enable the fund to perform this duty.

We have, however, now told the fund that we are prepared in certain future dealings, which we have in mind, to provide absolute proof that the gold has actually been manufactured before it leaves our shores. I will state, now, Mr. Speaker, that if they so desire they may send their own experts to satisfy themselves that the gold is fully manufactured. We will place every facility at their disposal.

In giving them details of this matter, we have also provided proof that there is a demand in the world today for fully manufactured gold at a premium price not less than that now being paid under guaranty by Mocatta and Goldsmid, and that this demand is for a much larger quantity than that sold to Mocatta and Goldsmid. In view of this evidence, which I shall presently give the House, any suggestion that the well-established houses with which we deal will fail to honor their undertaking cannot be taken too seriously, particularly in view of the vagueness of the case which the fund itself has presented.

I now come to these further transactions.

I want to inform the House that for some time the Treasury has, in conjunction with the Transvaal Chamber of Mines, been conducting negotiations with the representative of a long-established house which desires to open a factory in this country for the fabrication of gold articles for export. These negotiations have now proceeded to the state that the representative of the house has gone overseas to make arrangements for erecting the factory.

The conditions which we have laid down for the licensing of such a factory have been designed to safeguard firstly our position as member of the International Monetary Fund; secondly, the police requirements necessary for the control of unwrought gold, and; thirdly, our nonsterling-exchange position.

The first and the second of these considerations make it necessary for us to have proof that all the gold is in fact manufactured and, when exported, goes out only in a fully manufactured state. For this purpose, we have stipulated that the factory shall at all times be open to police inspection. We have laid down secondly that, of the costs included in the f. o. b. value of an article, not more than 80 percent may be represented by the gold content, and that this condition must apply to every single article. This provision is intended to ensure that fabrication is not purely casual and unimportant and has been taken over from the regulations of the United States of America.

We have stipulated thirdly that, while restrictions are in force on imports from nonsterling areas, the total amount of nonsterling exchange returned to the Union for sale of the fabricated gold must be not less than the currency value of all the gold sold to the company. This will be averaged over a period. The provisions of the emergency finance regulations that all nonsterling exchange accruing to a South African resident must be sold to the Treasury will, of course, apply.

We have further arranged that the price should be agreed as between the Chamber of Mines and the company. Provisional arrangements already concluded with the chamber provide for a premium which is higher than that which accrues from the sale to Mocatta and Goldsmid. The proceeds will, of course, accrue to

gold producers. The present transaction envisages the premium of 17s. 6d. per ounce. We shall lose no nonsterling exchange on the gold, and we shall also earn additional foreign exchange to the extent to which value is added to the gold by the process of manufacture.

One further stipulation must be mentioned. We indicated to the proposers of the scheme that no monopoly in this class of business can be conferred on them. I may add that the Treasury has already had tentative inquiries from other sources, and that another house is at present conducting negotiations with the chamber of mines. I think I can fairly claim, Mr. Speaker, that judged by this business demand where every safeguard is being taken that the gold will be fully manufactured under strict supervision, there is a field here which we as gold producers have every right to enter. This strong evidence of the continued public faith in our chief export will be accepted by this House and by the country with satisfaction.

Now this brings me to a further aspect of this question to which, I think, I should devote some attention.

In the course of the debate on the part appropriation, the honorable member for Kimberley asked me for information about the magnitude of the demand for gold for industrial, artistic, and professional purposes.

It is not possible to give any definite information on this subject since the demand changes with changing economic conditions. It is generally on the increase in periods of economic uncertainty and judging by requests which the Treasury has received, and by current information from foreign sources, it is very heavy at the present juncture. This demand is, however, mixed up with the demand for gold for black-market purposes, and reliable statistics are therefore not obtainable.

It is, however, clear that all over the world wherever people are allowed to possess gold they are willing to pay substantial premiums in paper money of all kinds to gain possession of the metal.

They would prefer to obtain it in the form of coin or bar gold or even alloyed strip, wire, or sheet. All this would, however, be in conflict with the rules of the International Monetary Fund.

So anxious, however, are many people all over the world to possess gold that if they cannot get it in monetary form, they will take it in fully fabricated form, paying not only the costs of fabrication but also a substantial premium. You may call it gold hoarding if you like but the public realizes that once they have turned their paper money into gold the process of depreciation not only stops but will in time reverse itself. They realize that paper money has always depreciated in value. They realize that throughout the ages gold has always appreciated and never depreciated in value. Hence the universal faith in gold, enduring confidence of millions of people on which finally rests the security of our gold mines.

The present position of fundamental disequilibrium between gold and currencies is breeding a crop of evils. As far as we are concerned it has been the principal factor making import control necessary. This will no doubt not influence other countries very strongly. The misfortunes of others are easy to bear. But it has also caused a growing distortion in international trade relations, an artificial diversion of trade into unexpected channels. It has caused a free market in gold which has assumed extensive proportions. It has caused a black market in all currencies, including the United States dollar. It is this black market which, together with the free market in gold, is threatening one of the main objectives of the International Monetary Fund—the stability of exchange rates—and causing merchandise of high economy density to go to markets which never handled them before. It has caused diamonds to go to out of the way places and attempts which have been made to counter this threat to the foreign exchange control systems of different countries have not been very successful. It has caused karakul skins to go to such cool places as Aden and Martinique. Everywhere the object is to procure a ready carrier for the black market which enables the operators to profit from exchange transaction. This serves no economic purpose. It merely exploits for individual profit the failure of the international system of controlled currencies to take full account of the facts.

It is becoming increasingly clear, Mr. Speaker, that the elaborate attempt to keep up behind tremendous facades of exchange controls, the fiction that gold is worth only $35 an ounce, cannot endure much longer. This is an international problem and will soon be the touchstone of the success or failure of the International Monetary Fund.

[Corrected]

LEGATION OF THE UNION OF SOUTH AFRICA,
March 2, 1949.

The MANAGING DIRECTOR, INTERNATIONAL MONETARY FUND,
Washington, D. C.

DEAR SIR: I have been directed to transmit the attached telegram from Dr. Holloway addressed to you.

Yours very truly,

W. D. VAN-SCHALKWYK,
Secretary of Legation.

From Holloway for Gutt International Monetary Fund.

1. I have been directed to reply in the following terms to your telegram containing the text of a press statement released by the fund on the 25th February.

2. Three issues have been raised in the correspondence which has taken place between the Union Government and the fund, viz:

(A) The sale of 100,000 ounces of processed gold as an experiment in the sale of gold for customary industrial, professional, or artistic purposes.

(B) The manufacture for export of gold articles under strict supervision of the Union Government.

(C) The monetary price of gold.

3. As regards the sale of processed gold, I am to repeat that this has been undertaken as an experiment. The Government's future action will be influenced by the results of this experiment. The Union Government is satisfied that the guaranty which it has received fully justified it in undertaking the experiment. It is, however, obtaining replies to the further queries which the fund have directed to it—queries which are based on the practice of the United States of America. This information will be forwarded as soon as it has been collated. In doing so it wants to make it clear, however, that its action must not be construed as an admission that the requirements of the United States or of any other country are binding on other members of the fund.

4. As your letter of October 5 pointed out it is the Union Government which must satisfy itself that the gold is used for customary industrial, professional, or artistic purposes. To this end the Union Government has purposely taken up the matter on an experimental basis. It is giving the fund every opportunity of bringing evidence to its notice of the gold not being so used. If in the course of this experiment which is on a small scale compared with the Union's gold production any evidence should be brought or obtained which casts doubts on the bona fides of the transaction the Union Government would not want to proceed with it. For this purpose however it wants evidence and not the vague fears hitherto expressed by the Board the most substantial of which the Union Government has already advanced tangible facts to disprove.

5. The Union is of course willing at all times to consult with the fund as it has done on this occasion on matters of mutual interest. It will therefore give the fund full opportunity for expressing its views on any proposed further transaction in processed gold should offers be made to it which it regards as falling within the limitations necessary to insure that such gold will be used for customary industrial, professional, or artistic purposes. The final decision on the adequacy of the guaranties, however, rests not with the fund but with the Government which will give due weight to any tangible evidence submitted by the fund.

6. On the second question viz: the export of fully fabricated gold, the sageguards requested in your letter of October 5, 1948, will be fully complied with inasmuch as the gold will be completely manufactured under Government supervision before it leaves the Union. If the Board so desires it may appoint its own observer to assure itself that the safeguards are complied with. Beyond this the matter falls outside the scope of the articles of agreement of the fund.

7. On the concluding portion of your statement animadverting on the Minister's remarks about the present price of gold Mr. Havenga has directed me to draw your attention to the fact that the maintenance of the price of gold at $35 is not as you state one of the "exchange policies which all members of the fund have undertaken to support." That price is only the present figure fixed in 1944 with express provision of a method for changing it. Since that price was fixed all other prices have skyrocketed and this has made the fund's currency price of gold unrealistic. The resulting increasing distortions in the pattern of international trade show the growing danger of the fund attempting to maintain this disequilibrium. This is the real danger to "the exchange policies which all

members of the fund have undertaken to support." It is also a threat to all gold-producing countries. The Minister's statement therefore did not undermine exchange policies. It is the fund's efforts to bolster up the unrealistic price which are actually undermining exchange stability.

8. As regards the fund's objection to his making the statement the Minister has directed me to state categorically—

A. That no member has abdicated its right to criticize the fund—a right which is inherent in all sound democratic institutions and

B. That if a Minister serving a free parliament is to be inhibited from discussing frankly with Parliament matters of grave national importance for fear of criticizing the attitude of the Board of Directors of the fund this can only tend to undermine confidence in the fund itself.

9. In conclusion I have been directed to draw your attention to two remarks in your press statement which have no doubt quite unintentionally created the impression among the public that the fund possesses powers which have no foundation in the articles of agreement.

10. Firstly, your press statement says "The fund reemphasizes that there has been no approval of the specific transaction." The statement, however, does not mention the fact that a member is not required to obtain the approval of the fund for such transactions.

11. Secondly your statement says that "South Africa has also been advised that it will be expected to consult the fund prior to entering into any negotiations for similar transactions in the future." No where do the articles of agreement require a member to consult with the fund before entering into negotiations. A member is only required to take the action outlined in terms of paragraph 5 above.

12. In the interests of all members it is desirable that this misapprehension however unintentionally created should be removed.

13. The contents of this telegram will be released to the press at midnight on March 2.

Senator MILLIKIN. I was asking Mr. Southard: What is your authority in your articles of agreement?

Mr. SOUTHARD. I handed to the members of the committee, Mr. Chairman, and to the reporter, a statement which I would read, if that seems your wish. I might possibly avoid reading the excerpt from article XV which is quoted here, which Senator Millikin has already put in the record, and start at the bottom of the page.

Pursuant to these provisions, the Chairman of the contracting parties to GATT, on behalf of the contracting parties, addressed a letter to the International Monetary Fund, asking whether the fund would be prepared to engage in the consultations contemplated in paragraph 2 quoted above, and to make the findings and determinations there contemplated. The letter was presented to the Executive Directors of the fund and the Executive Directors authorized the Managing Director to reply affirmatively on behalf of the fund.

I would interpolate there, Senator, that I have already read the detailed action of the fund.

If the contracting parties to GATT are regarded as a public international organization, there is explicit authority for cooperation by the International Monetary Fund, as set forth in article X of its articles of agreement, as follows:

The fund shall cooperate within the terms of this agreement with any general international organization and with public international organizations having specialized responsibilities in related fields.

However, the GATT does not in terms establish a public international organization.

Senator MILLIKIN. Mr. Southard, if I may interrupt at that point: You would not contend that GATT is a general international organization?

Mr. SOUTHARD. We do not contend that it is a public international organization.

Senator MILLIKIN. Do you contend that it is a general international organization?

Mr. SOUTHARD. Could I address that question to Mr. Bronz for reply?

I should interpolate, Senator, that I am ending my first week as United States Executive Director of the fund, and I depend somewhat on advice of counsel in these matters.

Mr. BRONZ. Senator, Mr. Brown has testified repeatedly in this hearing that it is not the view of the United States Government that GATT constitutes an international organization.

Senator MILLIKIN. Does it constitute a public international organization? And in connection with your answer, I remind you of the contractual nature of GATT.

Mr. BRONZ. In the remainder of the paragraph which Mr. Southard was reading, it is pointed out that there is a considerable distinction between GATT and public international organizations.

Senator MILLIKIN. Then is this article relied upon to give authority for entering into the agreement?

Mr. BRONZ. No; it is put in as a possible alternative basis, if someone should regard GATT as a public international organization.

Senator MILLIKIN. Does anyone in authority regard it as such?

Mr. BRONZ. No, sir.

Senator MILLIKIN. Then it seems to me that we might as well rule article X out as a source of authority.

What other explicit sources of authority are there in the agreement?

Mr. SOUTHARD. If I may continue with the statement, I believe that will be covered.

The agreement, while extensive in scope and including within its 23 signatories 18 members of the fund—(Southern Rhodesia, which is a nineteenth signatory of the GATT, is considered part of the United Kingdom for the purposes of fund membership—including the countries most important in international trade, does not set up an administrative machinery typical of public international organizations. It is in essence a multilateral trade agreement comprising the type of provisions which have commonly been included in bilateral trade agreements, made by the United States, under the Reciprocal Trade Agreements Act.

Senator MILLIKIN. Mr. Southard, let me interrupt you, please.

With reference to your statement:

it is in essence a multilateral trade agreement comprising the type of provisions which have commonly been included in bilateral trade agreements—

can you cite me any bilateral trade agreement which includes a provision of the type we are talking about?

Mr. SOUTHARD. I don't have at my fingertips all of the bilateral trade agreements. I, of course, do not mean to imply there that there are bilateral trade agreements, which this country has entered into, which make use of the fund's specific services.

Senator MILLIKIN. I suggest to you, Mr. Southard, that it could not be a common type of inclusion, for the very reason that the fund has only been in existence for a few years, and so that type of coopera-

tion could not have been contemplated in prior reciprocal trade agreements.

Mr. SOUTHARD. This speaks of the type of provisions. I believe—although, of course, Mr. Brown is far more familiar with this than I am—that there are in some of our trade agreements, provisions that speak to foreign exchange policy and to exchange controls.

Senator MILLIKIN. At this moment I would not challenge that. I thought you were shooting with buckshot. You are taking in a little too much territory.

Mr. SOUTHARD. I see, Senator.

However, it is not necessary to assume that the contracting parties to GATT have constituted a public international organization in order to support the fund's authority to cooperate with the contracting parties in the manner contemplated by the quoted provisions from GATT.

The International Monetary Fund was established to promote international monetary cooperation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems.

Senator MILLIKIN. That appears in the statement of purposes.

Mr. SOUTHARD. That is right; article I, section (i).

Senator MILLIKIN. That may have certain interpretative value, but you must look to the provisions of the agreement for your source of authority.

Mr. SOUTHARD. I believe that the statement of purposes would well cover certain broad activities of the fund which were not specifically excluded by the articles.

Senator MILLIKIN. I suggest it might illuminate an obscurity in the specific provisions. But I suggest you cannot rest your authority on a statement of purposes. I think that is "hornbook."

Mr. BRONZ. Senator, the purposes established in the articles of agreement are binding as purposes, and the quotation is set forth here as conclusive evidence of the purpose of the fund; one of the purposes being to establish a permanent institution with machinery for collaboration on monetary problems.

Senator MILLIKIN. I have no doubt that that is one of the purposes. I repeat that it is "hornbook"; that you cannot derive authority from a purpose, except as to its interpretative value in cases of obscurity.

The CHAIRMAN. Suppose you proceed, Mr. Southard?

Mr. SOUTHARD. Further, it is given a specific responsibility with respect to the precise type of information contemplated by article XV, paragraph 2, of GATT. [Reading:]

It (the Fund) shall act as a centre for the collection and exchange of information on monetary and financial problems, thus facilitating the preparation of studies designed to assist members in developing policies which further the purposes of the Fund.

Senator MILLIKIN. Mr. Southard, I suggest that would hardly reach the provision to which I have invited your attention; that the contracting parties [reading]:

shall accept the determination of the Fund as to what constitutes a serious decline in the Contracting Parties monetary reserves, a very low level of its monetary reserves, or a reasonable rate of increase in its monetary reserves.

Mr. SOUTHARD. From the standpoint of the fund, Senator, it would seem to me that the fund is empowered by article VIII, section 5 (c) to exchange information on precisely that.

Whether the GATT on its part does or does not bind itself to accept the fund's finding and the fund's judgment as to the material, I think does not speak to the fund's authority.

Senator MILLIKIN. Mr. Southard, first let me say I would not for a moment challenge the right of the contracting parties, within thier valid scope of authority, to avail themselves of any information and any place that it might be available, including the fund. But, under the provisions which I have been discussing with you, it is not a merely mechanical matter of passing out information. It is an obligation to make determinations involving, of course, policy, and involving decisions on facts.

Senator BREWSTER. Would there not be a considerable difference between a study designed to assist and a determination?

Mr. SOUTHARD. The studies that the fund typically prepares, designed to assist members, contain many determinations as to facts and as to situations, which I think would be typical of the determinations that were intended to be made on behalf of GATT.

The CHAIRMAN. Suppose you continue, Mr. Southard.

Mr. SOUTHARD. Eighteen members of the fund have made a multilateral agreement to reduce trade values among themselves, this working toward the achievement of the following stated purposes of the fund [reading]:

> (ii) to facilitate the expansion and balanced growth of international trade * * *.
>
> (iv) to assist * * * in the elimination of foreign-exchange restrictions which hamper the growth of world trade. (International Monetary Fund, article I).

Most of the 18 countries—those now in the fund transitional period—are obligated by article XIV, section 2, of the fund articles—

> to develop such commercial and financial arrangements with other members as will facilitate international payments and the maintenance of exchange stability.

They are trying to do precisely this in GATT.

It therefore seems clear that the fund, as the permanent institution for consultation and collaboration on international monetary problems, and as the center of information in the field, can make its information and advice available to 18 memebrs who seek it, in order to carry out their obligation under the fund articles, and work toward the achievement of the aims of the fund.

The contracting parties have agreed among themselves to be guided by the fund's views on such matters as balances of payments, monetary reserves, and foreign-exchange arrangements.

If there remained any doubt as to the authority of the fund to engage in this arrangement, I would feel that the policy directive given me by the Congress compelled me to resolve any doubts in favor of cooperation with GATT. Section 14 of the Bretton Woods Agreement Act of July 31, 1945, provides [reading]:

> In the realization that additional matters of international cooperation are necessary to facilitate the expansion and balanced growth of international trade and render most effective the operations of the Fund and the Bank, it is hereby declared to be the policy of the United States to seek to bring about further agreement and cooperation among nations and international bodies, as soon as possible,

on ways and means which will best reduce obstacles to and restrictions upon international trade, eliminate unfair trade practices, promote mutually advantageous commercial relations, and otherwise facilitate the expansion and balanced growth of international trade and promote the stability of international economic relations. In considering the policies of the United States in foreign lending and the policies of the Fund and the Bank, particularly in conducting exchange transactions, the Council and the United States Representatives on the Fund and the Bank shall give careful consideration to the progress which has been made in achieving such agreement and cooperation.

Senator MILLIKIN. That also is a statement of purpose?

Mr. SOUTHARD. That is right, a statement of purpose.

Senator MILLIKIN. May I invite your attention to section 1 of article V of the fund agreement, entitled "Agencies Dealing With the Fund"? [Reading:]

Each member shall deal with the Fund only through its Treasury, Central Bank, Stabilization Fund, or other similar fiscal agency, and the Fund shall deal only with and through the same agencies.

Would you mind bringing that into relation with your theory that there is authority to enter into these arrangements with the fund?

Mr. SOUTHARD. The fund regards that section of article V as binding it in all of its transactions to deal only with these stated fiscal agencies.

Senator MILLIKIN. Is GATT regarded by the fund as a treasury, a central bank, a stabilization fund, or a fiscal agency?

Mr. SOUTHARD. So far as dealings between the fund and its members are concerned, which do not directly relate to depositaries or to transactions, the fund deals with various agencies of members. The fund recognizes the general administrative regulations of members, determining which agency of a member should deal with what problem.

For example, the fund certainly recognizes the designation of a new governor by the Minister of Foreign Affairs of a country or by the Minister of Finance.

The fund has agreements with most of the members concerning the addresses to which are to be sent communications other than those on transactions. That is, the fund does not regard that article as binding it to have no dealings whatever, no relations whatever, with member governments, in relations not involving transactions, other than through these stated fiscal agencies.

Senator MILLIKIN. Of course, you would have the right to deal with your members, as such, as members of the fund. That begs the question as to whether you have the right to assume these functions with reference to GATT, which in part include members of your fund, which in part may not include members of your fund, and which is some kind of entity.

Mr. SOUTHARD. I should like to have Mr. Bronz or Mr. Tasca speak to that.

Senator MILLIKIN. In other words, the contracting parties, as such, are not members of the fund.

Mr. BRONZ. Senator, the fund's interpretation, as I understand it, has been that the word "deal" in section 1 refers to financial transactions, the purchase and sale of currency, the making of deposits in depositary banks, and transactions of that sort. That interpretation was reached because section 1 appears in article V, an article headed "Transactions with the fund." It has therefore been the practice of the fund to limit its dealings, its sales of currency, purchases of cur-

rency, and deposits of currency to the fiscal agencies of the members; but other relationships with members, such as the appointment of representatives, submission of regulations, matters of that sort, are not considered dealings within the meaning of this section, and it has been the practice of the fund, in fact, to transact business of that sort with various agencies of member governments. For example, the Minister of Foreign Affairs may certify to the appointment of a governor, and that certification is accepted, rather than that of the fiscal agency; and, similarly, in various other dealings with member governments.

Senator MILLIKIN. Of course, you are speaking now of a member nation, a member of the fund.

Mr. BRONZ. Yes, sir; but the restriction to dealings with fiscal agencies, appearing in article V, section 1, has been construed as applicable only to financial transactions, to the sale of currencies, deposits of currency, drawings of currency.

Senator MILLIKIN. I would think that the existence of this informal arrangement between the two bodies would indicate that there has been such an interpretation; or else, the arrangement is invalid under your own view of it. But I suggest that perhaps your argument is "bootstrap lifting." When the contracting parties go to the fund with reference to any of these matters, on which it is authorized to go to the fund, I think under the common meaning of the term it is the same as having transactions with the fund or dealings with the fund.

Mr. BRONZ. That construction by the fund preceded the GATT. It was not, as your "bootstrap" reference might suggest, designed in order to permit this arrangement with GATT. In fact, the fund has accepted governors who bore credentials from Foreign Offices rather than from fiscal agencies, and has accepted various diplomatic documents from other than fiscal sources, from its inception.

So that the fund's interpretation from the very beginning has been that this section does not require that every communication between the fund and a member be through a fiscal agency, but is limited to actual money transactions.

Senator MILLIKIN. I still do not believe you have talked to the point of transactions or dealings with an entity which is not a member of the fund.

Mr. BRONZ. The section limits the fund to dealings with certain types of agencies. As I have explained, this has been construed only as relating to certain types of dealings.

Senator MILLIKIN. Yes.

Mr. BRONZ. Now, since the relationship with the contracting parties is not of this type, and it does not involve payment of money or transfer of currencies, therefore, the limitation of section 1 of article V would not be applicable to the sort of relationships that have been set up between GATT and the fund.

Senator MILLIKIN. That is perfectly correct, if your premise is correct, to wit: That you have made a proper interpretation of the provisions of the agreement which we have been discussing. I am filing a caveat on that interpretation.

Mr. BRONZ. I am simply reporting what I understand to be a consistent interpretation of the fund from the beginning.

Mr. SOUTHARD. Senator, we discussed this carefully with the fund attorneys, in order to be sure that we were reflecting a standing

interpretation of the fund and not merely, shall we say, a kind of United States Government interpretation of it.

Senator BREWSTER. Precedents are of far less significance than the conclusion. You are putting a lot of weight on very trivial matters, matters of designation and other things, which are not of much consequence in dealing with a government, but now you are using those precedents to broaden those things, to dealings outside the membership.

Mr. SOUTHARD. I believe, Senator, in this particular matter of the fund's consideration of whether it had the power to deal with GATT, and then having a look at article V, the reasoning of the fund attorneys, as I understand it, is that the fund has the right to deal with members on these matters of determination of facts, and of drawing judgments from those facts; and that if a group of members choose to associate themselves in an agreement, and then if those members wish to come, through their association in that agreement or separately, to the fund for these determinations, article V does not require, so to speak, that they must come through their Minister of Finance, their Treasury, their central bank or their stabilization fund.

Senator MILLIKIN. Under this article XV of GATT and other associated articles, GATT is required to accept, with some possible exceptions, the parities established by the fund. How were those parities originally established?

Mr. SOUTHARD. I have a brief statement, Senator, which I prepared, because you had told me you were interested in that. I will read it, or speak it orally; any way you wish.

Senator MILLIKIN. Any way you wish, Mr. Southard.

The CHAIRMAN. You may read your statement, Mr. Southard, unless you would prefer to speak to it. Probably you state it concisely in your memorandum here.

Mr. SOUTHARD. I should like to submit herewith a statement of existing par values established by the International Monetary Fund. May I submit for the record the latest statement I have?

The CHAIRMAN. Yes, sir.

(The material referred to is as follows:)

[Seventh issue]

INTERNATIONAL MONETARY FUND

SCHEDULE OF PAR VALUES [1]

FOREWORD

The following is a schedule of the par values which have been established under the Articles of Agreement of the International Monetary Fund.

The Fund Agreement requires that "the par value of the currency of each member shall be expressed in terms of gold as a common denominator or in terms of the United States dollar of the weight and fineness in effect on July 1, 1944." For convenience, all par values in the following schedule have been expressed both in terms of gold and of United States dollars in a uniform manner and with six significant figures, i.e., six figures other than initial zeros. For these reasons, there may arise in a few cases discrepancies in the last rounded decimal figures.

[1] Source: International Monetary Fund, Washington, D. C., January 1, 1949.

Par values for the following 32 members were established on December 18, 1946:

Belgium	El Salvador	Netherlands [3]
Bolivia	Ethiopia	Nicaragua
Canada	France [2]	Norway
Chile	Guatemala	Panama
Colombia [1]	Honduras	Paraguay
Costa Rica	Iceland	Peru
Cuba	India	Philippine Republic
Czechoslovakia	Iran	Union of South Africa
Denmark	Iraq	United Kingdom
Ecuador	Luxembourg	United States
Egypt	Mexico	

Par values for the countries listed below have been established subsequently:

Venezuela on April 18, 1947
Turkey on June 19, 1947
Lebanon on July 29, 1947
Syria on July 29, 1947
Australia on November 17, 1947
Dominican Republic on April 23, 1948
Brazil on July 14, 1948

Par values have not yet been established for the currencies of Austria, China, Finland, Greece, Italy, Poland, Uruguay, and Yugoslavia.

WASHINGTON, D. C., *January 1, 1949.*

I. Currencies of Metropolitan Areas

Member	Currency	Par values in terms of gold		Par values in terms of U. S. dollars	
		Grams of fine gold per currency unit	Currency units per troy ounce of fine gold	Currency units per U. S. dollar	U. S. cents per currency unit
Australia	Pound	2.865 07	10.856 1	0.310 174	322.400
Austria	Schilling	Par Value not yet established			
Belgium	Franc	0.020 276 5	1,533.96	43.827 5	2.281 67
Bolivia	Boliviano	0.021 158 8	1,470.00	42.000 0	2.380 95
Brazil	Cruzeiro	0.048 036 3	647.500	18.500 0	5.405 41
Canada	Dollar	0.888 671	35.000 0	1.000 00	100.000
Chile	Peso	0.028 666 8	1,085.00	31.000 0	3.225 81
China	Yuan	Par Value not yet established			
Colombia	Peso	0.455 733	68.249 3	1.949 98	51.282 5
Costa Rica	Colón	0.158 267	196.525	5.615 00	17.809 4
Cuba	Peso	0.888 671	35.000 0	1.000 00	100.000
Czechoslovakia	Koruna	0.017 773 4	1,750.00	50.000 0	2.000 00
Denmark	Krone	0.185 178	167.965	4.799 01	20.387 6
Dominican Republic	Peso	0.888 671	35.000 0	1.000 00	100.000
Ecuador	Sucre	0.065 827 5	472.500	13.500 0	7.407 41
Egypt	Pound	3.672 88	8.468 42	0.241 955	413.300
El Salvador	Colón	0.355 468	87.500 0	2.500 00	40.000 0
Ethiopia	Dollar	0.357 690	86.956 5	2.484 47	40.250 0
Finland	Markka	Par Value not yet established			
France	Franc	No Par Value agreed with the Fund			
Greece	Drachma	Par Value not yet established			
Guatemala	Quetzal	0.888 671	35.000 0	1.000 00	100.000
Honduras	Lempira	0.444 335	70.000 0	2.000 00	50.000 0
Iceland	Krona	0.136 954	227.110	6.488 85	15.411 1
India	Rupee	0.268 601	115.798	3.308 52	30.225 0
Iran	Rial	0.027 556 7	1,128.75	32.250 0	3.100 78
Iraq	Dinar	3.581 34	8.684 86	0.248 139	403.000

[1] On the proposal of the Government of Colombia in which the Fund concurred on December 17, 1948, the par value of the Colombian peso was changed to the parities appearing in this issue of the Schedule.

[2] In January 1948, the French Government made a proposal to the Fund which included a change in the par value of the franc. On January 26, 1948, the proposal of the French Government was put into effect without the approval of the Fund, and at the present time there is no par value for the French franc agreed with the Fund. The proposal of the French Government related to some but not all of the separate currencies, in French nonmetropolitan areas, but all of these separate currencies have been omitted from the Schedule at the request of the French Government. A par value for French Indochina has never been established.

[3] A par value for Indonesia has never been established.

I. Currencies of Metropolitan Areas—Continued

Member	Currency	Par values in terms of gold		Par values in terms of U. S. dollars	
		Grams of fine gold per currency unit	Currency units per troy ounce of fine gold	Currency units per U. S. dollar	U. S. cents per currency unit
Italy	Lira	Par Value not yet established			
Lebanon	Pound	0.405 512	76.701 8	2.191 48	45.631 3
Luxembourg	Franc	0.020 276 5	1,533.96	43.827 5	2.281 67
Mexico	Peso	0.183 042	169.925	4.855 00	20.597 3
Netherlands	Guilder	0.334 987	92.849 8	2.652 85	37.695 3
Nicaragua	Cordoba	0.177 734	175.000	5.000 00	20.000 0
Norway	Krone	0.179 067	173.697	4.962 78	20.150 0
Panama	Balboa	0.888 671	35.000 0	1.000 00	100.000
Paraguay	Guarani	0.287 595	108.150	3.090 00	32.362 5
Peru	Sol	0.136 719	227.500	6.500 00	15.384 6
Philippine Republic	Peso	0.444 335	70.000 0	2.000 00	50.000 0
Poland	Zloty	Par Value not yet established			
Syria	Pound	0.405 512	76.701 8	2.191 48	45.631 3
Turkey	Lira	0.317 382	98.000 0	2.800 00	35.714 3
Union of South Africa	Pound	3.581 34	8.684 86 (or 173 shillings 8.367 pence)	0.248 139 (or 4 shillings 11.553 pence)	403.000
United Kingdom	Pound	3.581 34	8.684 86 (or 173 shillings 8.367 pence)	0.248 139 (or 4 shillings 11.553 pence)	403.000
United States	Dollar	0.888 671	35.000 0	1.000 00	100.000
Uruguay	Peso	Par Value not yet established			
Venezuela	Bolivar	0.265 275	117.250	3.350 00	29.850 7
Yugoslavia	Dinar	Par Value not yet established			

II. Separate currencies in non-metropolitan areas of members

Member and Non-Metropolitan areas	Currency and relation to Metropolitan Unit	Par values in terms of gold		Par values in terms of U. S. dollars	
		Grams of fine gold per currency unit	Currency units per troy ounce of fine gold	Currency units per U. S. dollar	U. S. cents per currency unit
BELGIUM					
Belgian Congo	Franc (Parity with Belgian franc)	0.020 276 5	1,533 96	43.827 5	2.281 67
NETHERLANDS					
Surinam	Guilder (=1.406 71 Netherlands guilders)	0.471 230	66.004 9	1.885 85	53.026 4
Netherlands Antilles	Guilder (=1.406 71 Netherlands guilders)	0.471 230	66.004 9	1.885 85	53.026 4
Indonesia	Guilder	Par Value not yet established			
UNITED KINGDOM					
Gambia, Gold Coast, Nigeria, Sierra Leone	West African Pound (Parity with sterling)	3,581 34	8,684 86	0.248 139	403.000
Southern Rhodesia, Northern Rhodesia, Nyasaland	Southern Rhodesian Pound (Parity)				
Cyprus	Cyprus Pound (Parity)				
Gibraltar	Gibraltar Pound (Parity)				
Malta	Maltese Pound (Parity)	3.581 34	8.684 86	0.248 139	403.000
Bahamas	Bahamas Pound (Parity(.				
Bermuda	Bermuda Pound (Parity).				
Jamaica	Jamaican Pound (Parity).				
Falkland Islands	Falkland Islands Pound (Parity).				

II. Separate currencies in non-metropolitan areas of members—Continued

Member and Non-Metropolitan areas	Currency and relation to Metropolitan Unit	Par values in terms of gold		Par values in terms of U. S. dollars	
		Grams of fine gold per currency unit	Currency units per troy ounce of fine gold	Currency units per U. S. dollar	U. S. cents per currency unit
Kenya Uganda Tanganyika Zanzibar	East African Shilling (20 per pound sterling).	0.179 067	173.697	4.962 78	20.150 0
Barbados Trinidad British Guiana	British West, Indian Dollar (4.80 per pound sterling).	0.746 113	41.687 3	1.191 07	83.958 3
British Honduras	British Honduras Dollar (4.03 per pound sterling).	0.888 671	35.000 0	1.000 00	100.000
Mauritius	Mauritius Rupee (13⅓ per pound sterling).	0.268 601	115.798	3.308 52	30.225 0
Seychelles	Seychelles Rupee (13⅓ per pound sterling).				
Fiji	Fijian Pound (1.11 per pound sterling).	3.226 44	9.640 20	0.275 434	363.063
Tonga	Tongan Pound (1.2525 per pound sterling).	2.859 36	10.877 8	0.310 794	321.756
Hong Kong	Hong Kong Dollar (16 per pound sterling).	0.223 834	138.958	3.970 22	25.187 5
Malaya (Singapore and Federation of Malaya).	Malayan Dollar (8.571-428 57 per pound sterling, or 2 shillings 4 pence per Malayan Dollar).	0.417 823	74.441 7	2.126 91	47.016 7
Sarawak British North Borneo.	The Sarawak and British North Borneo Dollars which circulate alongside the Malayan Dollar (which is legal tender) have the same value.				

Mr. SOUTHARD. I should say parenthetically, Mr. Chairman, that this is the seventh issue.

I am now turning to speak to the direct question of Senator Millikin, and read my prepared statement.

It may be noted that when the initial par values of the fund were originally established, in December 1946, in accordance with article XX, the fund accepted parities proposed by the member countries for the currencies of 32 members, and for a number of nonmetropolitan areas, that is to say, colonial countries, with separate territories.

At the request of the countries concerned, the consideration of the par values of Brazil, China, the Dominican Republic, Greece, Poland, Uruguay, and Yugoslavia, and certain nonmetropolitan territories of France and the Netherlands, was postponed.

Senator MILLIKIN. Were they members of the fund?

Mr. SOUTHARD. They were members. Article XX allowed them to defer their submission of a par value.

Since that date, it has been found possible to establish par values for Brazil and the Dominican Republic.

Senator MILLIKIN. So, outstanding among the members are China, Greece, Poland, Uruguay, and Yugoslavia. Correct?

Mr. SOUTHARD. That is right.

In addition to the original members, the fund has since admitted to membership Australia, Austria, Finland, Italy, Lebanon, Syria, Turkey, and Venezuela.

Senator MILLIKIN. Where par values have been established, were they established by their own——

Mr. SOUTHARD. They were submitted by the country to the Fund.

Senator MILLIKIN. And accepted by the Fund as submitted?

Mr. SOUTHARD. As submitted.

That does not, of course, mean that there was no technical consultation, which may in some instances, before it came to the Board, have guided the submission. But it means, as far as the Board of Directors of the Fund is concerned, that they accepted it. That speaks, Senator, to your particular question.

I shall continue, if you wish, with my statement on par values.

In addition to the original members, the Fund has since admitted to membership Australia, Austria, Finland, Italy, Lebanon, Serbia, Turkey, and Venezuela. Par values have been established for all of these countries except in the cases of Austria, Italy, and Finland.

Colombia has depreciated its original par value and a new par value has been established, while France and Mexico no longer have their original par values. Mexico is in consultation with the fund regarding a new par value. France does not have, at present, an agreed-upon par value because of the fund's refusal to accept what it considered to be the introduction early in 1948 of exchange practices harmful to France as well as to other member countries. France has since made considerable amendments in her practices, in accord with fund suggestions, and consultation continues between the fund and France looking toward the eventual establishment of a new par value as soon as conditions permit.

The fund is also in consultation with other memebr countries which do not have par values, and it may be expected that as soon as possible the par values of such member countries will be established—an important step in their achievement of exchange stability.

In addition to changes in the par values, a number of fund members, as, for example, Iran and Paraguay, have made important changes in their exchange practices, after consultation with the fund. These changes have looked toward the simplification and unification of the exchange-rate structure of the various countries, with a view to the establishment of more liberalized, nondiscriminatory exchange practices. The fund has done its best to discourage and dissuade members from the introduction of further discriminatory and restrictive exchange practices.

It is to be emphasized that the fund is doing all possible to create a pattern of exchange rates, suitable to present-day conditions.

It is to be recalled that under the articles of agreement, the initiative with regard to a change in a par value is left to the member governments. It may be readily understood that no country, including the United States, would be prepared to have the fund initiate changes in the par value of its currency that is in its gold content.

The fund exercises its influence on this problem by repeated review by its executive board and staff of the economic position of its member countries, and their external relations, with a view to deciding, among other things, whether or not changes in their parities would make an effective contribution to the betterment of their international economic position. If it is deemed desirable, missions are sent to member countries to discuss these problems of mutual concern. The fund during 1948 alone sent nearly 46 missions to 32 member

countries. In the case of certain member countries, it was considered wise to have more than one visit by fund experts and technicians during the year.

This kind of activity must be conducted quietly, and frequently in in utter secrecy. Countries object strongly to giving publicity to such discussions of their intimate difficult, and complex monetary and exchange problems, particularly since rumors of impending changes play into the hands of speculators and may cause costly losses in gold and foreign exchange reserves. The fund has earned the respect of the member countries, because it has learned to deal with them with the kind of consideration which we in the United States have come to expect in relations between a banker and his client.

The relative lack of publicity on fund exchange rate activities must not be taken as a sign of inactivity. The fund regards that the achievement of the purposes of the articles of agreement cannot be attained without constant attention being paid to the problem of exchange rates, and without constant efforts being made to obtain a more reasonable and workable structure of exchange rates.

In my own view, one of the most significant services which we may expect of the fund is its energetic and continuous consultative role. Before the war, the United States had endeavored, through the establishment of the tripartite agreement, to which a total of six countries adhered, to make a beginning at this type of consultation, but the gigantic step forward which the fund represents is that it now includes 47 countries who have undertaken the positive obligation to consult with the fund, and hence with each other, with respect to literally all phases of their foreign exchange policies.

It was my privilege in my previous post in the United States Government to advise the Secretary of the Treasury with respect to United States participation in the International Monetary Fund. I can bear witness that the existence of this organization has tremendously facilitated the efforts of the United States Government to work out orderly international financial policies.

Senator MILLIKIN. You stated that you accepted the parities proposed by each country for the currency of 32 members originally, and then you have added certain other members, and you accepted their parities?

Mr. SOUTHARD. Except in those instances where parities are still outstanding.

Senator MILLIKIN. Since the fund has been in effect, what parities have been changed?

Mr. SOUTHARD. Colombia has established a new par value. France has withdrawn its par value. Mexico no longer has the same par value, but there has as yet been no new submission of a par value by Mexico.

Senator MILLIKIN. With those exceptions, the parities of currencies of all of the countries in the fund have remained unchanged; is that correct?

Mr. SOUTHARD. That is correct, except that in certain countries, in Latin America particularly—I do not know at the moment whether it is solely—that have been allowed to continue temporarily what we call multiple rate structures, the fund has agreed, in some of those instances, among which I would note Chile, for example, and Paraguay and Peru, to rearrangements and reshufflings of those; looking always

toward a consolidation of rates, some step forward, however, small, which in effect means that the effective rates, or rates of exchange, have shifted somewhat. But you are correct, Senator, in saying that the par values have not been changed.

Senator MILLIKIN. How shall we designate these par values as distinguished from effective par values, special par values, black-market par values? What is the designation which you give to these officially established par values?

Mr. SOUTHARD. Without speaking in fund terminology, I would, if you asked for a common term, call these official exchange rates; or rather, if I may correct that a little bit, I would say that these par values conform to the official rates which the countries concerned, are supposed to make as effective as they can. There may be black-market rates alongside of them.

Senator MILLIKIN. With that exception, then, we are talking about the official rates, and I shall refer to them as the official rates.

Mr. SOUTHARD. The official rates reported to the fund, sir, so to speak.

Senator MILLIKIN. Yes, so that we do not get confused with a lot of other types.

As to official rates, Colombia has changed her par value with the consent of the fund.

Mr. SOUTHARD. With the consent of the fund.

Senator MILLIKIN. France has withdrawn her par value.

Mr. SOUTHARD. France has withdrawn it and has not submitted a new par value, because the fund did not at that time agree to the proposal France wanted to make.

Senator MILLIKIN. France did buy a lot of dollars early in the history of the fund, under the parities then established for the franc, did it not?

Mr. SOUTHARD. That is right; and has since made certain temporary adjustments in her exchange rate structure.

Senator MILLIKIN. The franc, since that time has had a great depreciation in value, has it not?

Mr. SOUTHARD. That is right. I would say you have a short of a de facto par there, but we should not call it a par value.

Senator MILLIKIN. Let us stick now to our official pars until we change that subject, and I am going to change it pretty soon.

When we get to Mexico, what is the situation there?

Mr. SOUTHARD. Last July, the Mexican Government and the Mexican Central Bank found that they were unable to continue their support operations, and they accordingly withdrew from the market and allowed the peso to move.

Senator MILLIKIN. That has been with the consent of the fund?

Mr. SOUTHARD. The fund was fully advised by Mexico. As long as Mexico did not come in with a new par value, it was not necessary to obtain the consent of the fund for something that, shall I say, could not be avoided, but the fund was fully informed, and the fund has been in continuous—and I say continuous—consultation since that time, with Mexico. Since that time the United States dollar rate in Mexico City has depreciated considerably, but for the greater part of that period has been held very steady by a combination of official action by the Mexican authorities, and ordinary market operations. But Mexico has not yet come back to the fund to declare its new par.

Senator MILLIKIN. Then would it be accurate to state that the fund has acquiesced, so far, in Mexico's deviation?

Mr. SOUTHARD. The fund so far, in its consultations with Mexico, has agreed to allow Mexico as much time as it has now had, to continue feeling its way toward a new par. As you may know, Mexico in one of the few countries in the world that has no exchange controls.

Senator MILLIKIN. It runs its exchange through Central Bank operations, does it not?

Mr. SOUTHARD. Yes.

Senator MILLIKIN. It does not have what we call multiple currencies?

Mr. SOUTHARD. It has no multiple currencies, and it has no exchange-control system, involving licensing, and so on.

Senator MILLIKIN. As to multiple currencies, how do you relate multiple currencies to your official parities?

Mr. SOUTHARD. Where countries have never had multiple currencies, or had not had them at the time they declared their official parities, the fund has been very, very reluctant to agree to such a country establishing multiple currencies; and in fact that was the root of the difficulty in the negotiations with France.

In the case notably of the Latin-American countries, where a very large number of them, as you know, had had multiple rates, which they built up largely during the 30's, the fund has recognized, or has accepted, a structure of multiple rates, depending on the stated parity. That is to say, they have arithmetic relation to the parity. I am putting this, if you will, Senator, in rather nonlegal language.

Recognizing that where such countries had built a structure of rates into their foreign trade, and into their domestic-price structure, they could not overnight consolidate all those rates into one, as the fund articles intend they should. So that as long as they continue in consultation with the fund, and as long as any move that they make to change their structures is in the direction of consolidating their rates, the fund has, to use a colloquial phrase, played along with their structures of multiple rates.

Senator MILLIKIN. But their official rates have continued as initially established?

Mr. SOUTHARD. That is right.

Senator MILLIKIN. So in most of those cases, what you have done is to make an adjustment to the facts of life?

Mr. SOUTHARD. In most cases the official rate is not a meaningless rate, it is a rate at which a greater or lesser number of commercial transactions still take place.

Senator MILLIKIN. We will test that a little bit later. We will come to that a little bit later.

Then, so far as the official rates are concerned, in what instances has any change been made, since the establishment of the fund?

Mr. SOUTHARD. The official rate? The par value? Changes in official action by the fund?

Senator MILLIKIN. Yes; reduced or raised.

Mr. SOUTHARD. Colombia is the only one.

Senator MILLIKIN. Colombia is the only instance?

Mr. SOUTHARD. That is right.

Senator MILLIKIN. Coming to the multiple-currency rates, let me invite your attention to the February 1949 issue of International Financial Statistics, put out by the fund.

Mr. SOUTHARD. I have a copy here, sir.

Senator MILLIKIN. I shall put into the record a few typical examples of licenses of exchange, multiple currencies, and other instances of what we have pleased ourselves to call restrictions on trade.

The following concerns Bolivia and appears on page 129 [reading]:

EXCHANGE RATES: ANNUAL OR MONTHLY AVERAGES

Since April 19, 1948, all sales of exchange, except those for imports, by the Government and for approved nontrade remittances, have been subject to an exchange surcharge of 1 boliviano per United States dollar. The present system of two official rates of exchange, with the following uses, has been in effect since October 20, 1947—

that is, since the establishment of the fund; is it not?

Mr. SOUTHARD. That is right.

Senator MILLIKIN (continues reading):

(1) A controlled rate of 42.00 and 42.42 (43.42 with tax) bolivianos per United States dollar, buying and selling respectively, used for fixed percentages of tin export proceeds, and for imports of essential goods. Although gold is purchased by the Government at this rate, the subsidy paid to gold producers since December, 1947—

the fund was in effect then?

Mr. SOUTHARD. Yes, sir; it was in effect then.

Senator MILLIKIN (continues reading):

makes the effective rate for gold transactions equivalent to 71 bolivianos per United States dollar. (2) A special buying rate of 55.50, at which tin exporters surrender that part of their exchange not required to be surrendered at the controlled rate. All other exports and nonmerchandise receipts are also sold at this rate. Exchange for approved imports, for which exchange has not been granted at the controlled rate, and for approved nontrade remittances, is supplied at the selling rate of 56.05 (57.05 with tax) bolivianos per United States dollar.

For most of the period from June 1948 to October 1947 the controlled rate existed as the only official rate of exchange.

Would it be true to say that in the case of Bolivia, there has been an expansion of special arrangements regarding exchange?

Mr. SOUTHARD. Actual increase in the number of multiple rates?

Senator MILLIKIN. A number of different gimmicks, that provide, let us say, hurdles to trade.

Mr. SOUTHARD. I am not sure whether there has been an expansion in the number of rates. The rates have shifted.

Senator MILLIKIN. I think it is clear that there are some twists and turns going on down there that did not precede the fund.

Mr. SOUTHARD. I believe that that is the case.

Senator MILLIKIN. I will only read one or two more of these, and then I will ask you some general questions as to the rest.

Take the case of Brazil, on page 130, starting down at about the fourth paragraph. [Reading:]

Beginning in 1937, permits were required for all imports and Government requirements were given priority for available exchange. At the same time all exchange transactions, except those of the Government, were made subject to a tax of 3 percent. In April 1939 this tax was increased to 5 percent and a new system of exchange rates was established.

Official rate—30 percent of export proceeds were to be surrendered at this rate. Funds so derived were available for Government purposes only.

(2) Free market rate—effective rate for all imports and exports (except the 20 percent of exports surrendered at the official rate).

(3) Special free market rate—used primarily for nontrade purposes. The required percentage of export proceeds to be surrendered at the official rate was

reduced from 30 to 20 percent on February 28, 1946. At the same time the special free market was abolished and the exchange tax was reduced to 3 percent. On July 22, 1946 the official rate was abolished, and the free market selling rate was reduced to 18.96 cruzeiros per U. S. dollar (19.53 with tax). The official rate continued to be quoted until January, 1947, for those transactions for which permits had been granted prior to July 22. The 3 percent tax was abolished on July 27 to make the effective free market selling rate 18.96 until August 17, 1946, when it was further reduced to its present level.

Generally speaking, do those different types of exchange still prevail in Brazil?

Mr. SOUTHARD. Generally speaking, yes. I think it is to be observed that most of these changes here have been in the direction of gradual consolidation of rates.

Senator MILLIKIN. I notice from what has been read that there seems to be some abolition——

Mr. SOUTHARD. One rate eliminated altogether, and some consolidation.

Senator MILLIKIN. Now I come to Chile, on page 133 [reading]:

In February 1948, Chile made several changes in her exchange rate system. There are now four basic rates of exchange, as well as several additional effective buying rates, which arise from the sale at the official and banking rates of varying proportions of export proceeds, the proportions depending on the commodity exported.

(1) A special Government rate, called the Official rate, prior to 1942, used as a buying rate for proceeds of exports of copper, iron ore, nitrates, and iodine in amounts equal to their local costs of production. Exporters of other commodities are required to sell varying portions (ranging from 1 to 20 percent) of their export proceeds at this rate. Government expenditures abroad are financed at this rate.

(2) A Preferential rate, that is made available only to importers of raw sugar, paper, and cellulose. Although at present this rate does not apply to export transactions, it is commonly referred to as the Export Draft Rate.

(3) The Official rate, used as a buying rate for export proceeds of small mining, agricultural and industrial products in varying portions, ranging from 20 to 40 percent. Importers of essential commodities may purchase exchange at this rate.

(4) A banking rate at which exchange for all authorized import and other payments not conducted at the official rate is furnished. That portion of export proceeds not sold at the Government or Official rates is sold at this rate. An additional Curb rate still exists for non-trade transactions, but it is of no great significance.

Would you say that generally speaking, that is typical of the exchange situation in a number of countries to the south of us?

Mr. SOUTHARD. I think when you read the Chilean one, Senator, you are picking one of the most complicated. I would not say it is typical, but I would want to say that the Fund has been in continuous and close consultation with Chile. I believe it would be fair to say that in the past 8 months, in the course of that consultation, there has been some consolidation of rates. The Fund is still working away with Chile on that subject, but this is a very complicated one. I have known of it of old.

Even with respect to South America, where these practices exist, it is very complicated.

Senator MILLIKIN. It has variations of a number of the things that we note with respect to other countries to the south of us, does it not?

Mr. SOUTHARD. The exchange systems in Chile and Bolivia are quite complicated. There are others that would be much simpler.

Senator MILLIKIN. Italy is not yet a member of the fund?

Mr. SOUTHARD. Yes, Italy is a member of the fund, but has not declared a par value.

Senator MILLIKIN. Italy has a multiple-rate system, does she not?

Mr. TASCA. Senator, I would say for the larger part of her transactions, no. She has what amounts to a floating-rate system, but it is a de facto single rate and has been a stable rate over a fairly long period of time. For about a year and a quarter, the rate has varied very little on the dollar. It has been about 575 lire per dollar and applies uniformly to all transactions between Italy and the United States. The sterling rate is now based on a cross-rate between the United States dollar and the pound. You don't really have a multiple-rate system in Italy, in the Latin-American or French sense.

Mr. SOUTHARD. I think we would feel that Italy has made very considerable progress toward consolidation.

Mr. TASCA. Sir, if I may comment further: There are certain types of barter transactions between Italy and certain other countries that have exchange difficulties which, because of the prices at which such exchange is carried on, leads to what you might describe as different effective rates of exchange. But those are really special types of transactions. These are primarily barter arrangements. An example would be the direct exchange of Swedish wood pulp for Italian silk or fruits and vegetables. It is a somewhat different kind of a problem.

Senator MILLIKIN. But Italy does have a multiple currency system, and it uses that in connection with different facets of the general problem, as you have described.

Mr. TASCA. If you want to, you can define it as having a multiple-rate system, but it is not a multiple-rate system in the sense that such systems are found in Latin America.

Senator MILLIKIN. Your note on page 150, second paragraph, says [reading]:

> Exchange rates: Annual of Monthly Averages: On November 26th, 1948, Italy and the United Kingdom concluded an agreement by which all transactions in Sterling are conducted at rates based on the lire-dollar rate, and the par value of the pound Sterling, in terms of the U. S. dollar. According to the new regulations, 50 percent of all Sterling proceeds shall be sold to the Exchange Control Office or authorized banks, at a rate determined by multiplying the prevailing Official Dollar Rate by 4.03 (Dollar-Sterling rate).

That is the floating process to which you referred?

Mr. TASCA. That is part of the floating rate aspect of the system presently in effect; yes, sir.

Senator MILLIKIN (continues reading):

> The remaining fifty percent may be sold directly to these agencies at a rate based on the closing Free Market Dollar rate for the preceding day, multiplied by 4.03.

So there is room for variation there, is there not?

Mr. SOUTHARD. Except that where, as has been the case, the free rate itself tends to be fairly stable, this process of determining the official rate with reference to the average free rate of the previous month means that there is virtually no spread between the two.

Senator MILLIKIN. But as to 50 percent, it may be sold at the closing free market dollar rate?

Mr. SOUTHARD. That is right.

Senator MILLIKIN. That might keep the two levels together, but it might not.

Mr. SOUTHARD. It might not.

Mr. TASCA. May I add a point for purposes of clarification, Senator?

Senator MILLIKIN. Surely.

Mr. TASCA. That is this: that the Government of Italy intervenes in the foreign exchange market and keeps the daily rate stable at 575, which is the basis for calculating the monthly average for the preceding month under the system in effect. Those two rates together make the current rate, and as a result of the market intervention, you have no variation. It is a de facto stable single rate of 575.

Senator MILLIKIN. What is the official rate from the fund standpoint?

Mr. SOUTHARD. Italy has not declared a par value.

Senator MILLIKIN. Going on [reading]:

> The present system of exchange rates was established in March 1946 and consists of the following rates:
>
> (1) An official rate at which 50 percent of the exchange proceeds from free currency areas is sold to the Italian Foreign Exchange office. Exchange for Government imports and for imports under certain payments agreements is supplied at this rate. Originally the official rate had been a fixed rate considerably below the free rates, but in November 1947 it was made approximately equal to the free rate by making it a fluctuating rate determined each month on the basis of the average of the rates prevailing in the free markets of Rome and Milan during the preceding month (this average is limited to quotations within a range of 350 to 650 lire per U. S. dollar).

By the way, this floating system of exchange does not accord with the primary purpose of the fund, does it?

Mr. SOUTHARD. No; the fund aims at stable rates.

Senator MILLIKIN. It aims at what it thinks will be a stabilized official rate?

Mr. SOUTHARD. That is right.

Senator MILLIKIN. And in your testimony you have shown that the official rate has been very stable. It has only been changed in the case of Colombia, is that not correct?

Mr. SOUTHARD. Yes, sir.

Senator MILLIKIN (continues reading):

> (2) a Free Market rate used for all nongovernment metal imports from free currency areas, and for the remaining 50 percent of exchange proceeds from free currency areas not sold at the official rate.
>
> (3) the average of the above rates, which is the effective rate for all exchange proceeds from free currency areas.

I believe it would be appropriate to ask at this point: In France and in Italy they have a free-moving black market, do they not?

Mr. SOUTHARD. Yes; they have a black market.

Senator MILLIKIN. Do they not have a black market in almost all of these countries of multiple currencies?

Mr. SOUTHARD. There is a pretty wide prevalence of black markets, but you can have black markets in countries that don't have multiple currencies, just as well as you can in those that do. They are not a phenomenon peculiar to multiple currency countries.

Senator MILLIKIN. Switzerland is not a member of the fund, is it?

Mr. SOUTHARD. No.

Senator MILLIKIN. Now, let us have an example, if you will be good enough to give it to us, of an American merchant who wants to buy a commodity from some foreign country, from a producer in some

foreign country. Give us, in a thumbnail way, what happens, so far as the incidence of exchange is concerned.

Mr. SOUTHARD. Let us take the case of Scotch whisky, a product that I use relatively little myself, but which is imported in large quantities.

I am not sure of the precise practices of that trade, but the American importer will obtain a price quotation from his prospective supplier in Glasgow, or wherever, in terms either of dollars or of sterling, depending on the customs of the trade. It would vary from trade to trade. There would be some of them, I am sure, some lines of trade, where there would be customary quotations of sterling prices. There would be others where there would be customary quotations in dollars; if the quotation is in sterling, if the goods are priced at a certain number of pounds, shillings and pence per case or per hundred cases, then the American importer himself becomes directly aware of the exchange rate, because he must, of course, know the rate at which he is going to be able to buy sterling, to remit, to cover his obligation at his bank, if he is operating on letter of credit or draft.

If, on the other hand, the price to him is quoted in dollars, and he is providing, as might be the case, a dollar letter of credit to his foreign buyer, then he is indifferent, himself, to the rate of exchange, because he has got a dollar contract that is obligating him to pay dollars; but, contrariwise, his foreign supplier of whisky will be directly aware of the exchange rate at which he, the Scotch exporter, must deliver, either sell, exchange in the market if it is a free system such as Mexico has, or deliver, exchange, deliver the dollars to the control authority, if, as in the case of England, it is a control system. In that instance, there being an established and effective—I say "effective" in the sense of "legally and commercially effective"—official rate for dollars of $4.03, roughly, there is a spread between the buy and the sell which I think is unimportant here. Then either party, depending on which way the quotation of the price runs, becomes aware of the exchange rate, and is guided by that in part in determining whether the transaction is a tolerable one from a commercial point of view.

Senator MILLIKIN. If there is an official rate, must he cast his transaction in terms of the official rate?

Mr. SOUTHARD. Yes; he must; because the authorities, in the case I have taken, the British authorities, will expect that the transaction will have been carried out at the stated rate of exchange.

Senator MILLIKIN. All right. Now, let us assume that a man makes a forward contract. He is a merchant who is now thinking about his fall-and-winter business. He wants to buy some gloves, or something else, made over in France or Belgium. Is he able to agree with his French or Belgian supplier that "I will pay you your money on the due date, on the date of delivery of the goods, on the following agreed rates of exchange between us"? In other words, can there be a private agreement settling the rates of exchange on forward contracts?

Mr. SOUTHARD. When the transaction finally must take place, it will be expected, so far as we are dealing again with a controlled and official rate, that the transaction will take place at the official rate of exchange.

Senator MILLIKIN. The official rate?

Mr. SOUTHARD. Yes. Where you would have situations with no controls whatever as, we will say, in the case of Mexico and the United States—I am thinking out loud here, Senator—there would be no reason why an American should not enter into a contract with a Mexican involving any kind of future settlement he wanted. But, when the time came, of course, the spot rates would be such-and-such; and if the forward contract turned out to be way out of line with the spot position at which one party or the other was going to buy dollar exchange or peso exchange, somebody would take a beating. I would say on the basis of my own study in times past, before the war, when forward markets were more orderly, that the forward business, as I am sure you know, is a banker's business in the exchange field, and there are very few merchants who get themselves tied up in forward transactions in exchange. They go to their banks and leave it to the banks.

Senator MILLIKIN. The bank takes a hedge on it. The banks, in the old practice, would take a hedge on the forwards. The merchant turns his problem over to his banker. He says, "Six months from now I must be prepared to pay so many francs to So-and-so, and I expect so many francs for so many dollars." And the bank takes that simple expression of our domestic merchant, and it proceeds by forward purchasings and forward hedgings to protect its own position. Is that not correct?

Mr. SOUTHARD. That is right. Still, some forward service can be obtained, but not very much, I think.

Senator MILLIKIN. Taking a nation where we have the official rates—and they stand the same as when they were declared, with the exception of Colombia—the final pay-off of final transactions must be in terms of those official rates; is that correct?

Mr. SOUTHARD. That is substantially correct, on the basis of those official rates.

Would you agree with that, Mr. Tasca?

Mr. TASCA. Yes.

Senator MILLIKIN. What is the procedure, Mr. Southard, for changing an official rate?

Mr. SOUTHARD. I would like Mr. Tasca to listen to what I say on this. Both of us have been watching this from the Treasury for several years, but it is only when you have been living with the thing that you can avoid getting tricked. And I have been living with it, as I said, 1 week.

But broadly the country that wishes to change its exchange rate or change its par can do either of two things, I would say.

Quietly and, I assume, secretly—because these things are not matters that any country wants to have speculation going on about—it could come to the fund. It technically would have to come through the board of directors, but it might come in informally, and consult, and seek, shall we say, prior technical advice. It could do that.

On the other hand, and I would think more likely, the member country would itself decide what it wanted its new rate to be, and then would come in, with all the rights of secrecy, the protection of its intentions from public speculation, and would present that proposal through its executive director, to the fund, and would be entitled to have a very prompt decision by the fund. The articles prescribed the

number of hours which the country must give the fund, within which the fund must act, in order to avoid a stalemate or leakages of information.

Then, with the advice of its staff, the fund directors examine that rate. If they agree that the rate is a tolerable rate, they will approve it. They will say they have no objection to it. If they were to feel that the rate, or any circumstances surrounding the change that were relevant to the powers of the fund, were not acceptable, the fund would say so and would endeavor, of course, to seek a meeting of minds. If there was no meeting of minds, and the country concerned insisted that it was going to use that rate or else, then there are several things that the fund could do.

It could live with the situation, if you will, as was the case with France. It need not expel a member, but it could say, as it said in the case of France, "You are not eligible to use the resources of the fund but, in the meantime, if you keep in consultation with us"—these are colloquial words—"we will live with you and work along, although we can't approve it."

The fund, as you know, could go to the extreme of saying that a member would have to leave the fund. I have not cited the sections of the fund article, but that is how it works under the fund procedure.

Senator MILLIKIN. That is where the request for a change in par goes below the limits which a member may make on its own, out of its own power; is that not correct?

Mr. SOUTHARD. Yes.

Senator MILLIKIN. I notice section 5 of article IV, relating to par values of currencies, provides [reading]:

> Changes in Par Values.—
> (a) A member shall not propose a change in the par value of its currency except to correct a fundamental disequilibrium.
> (b) A change in the par value of the member's currency may be made only on the proposal of the member and only after consultation with the fund.
> (c) When a change is proposed, the fund shall first take into account the changes, if any, which have already taken place in the initial par value of the member's currency as determined under Article XX, Section 4. If the proposed change, together with all previous changes, whether increases or decreases.
> (i) does not exceed ten percent of the initial par value, the Fund shall raise no objection;
> (ii) does not exceed a further ten percent of the initial par value, the Fund shall raise no objection.

So the fund, after being consulted, has nothing to say about that. Correct? And that deviation is entirely within the control of the member wishing to make the change?

Mr. SOUTHARD. Yes. Of course, the 10 percent is cumulative. You can't make a 10 percent change one time and then a 10 percent change another time. When you have once reached a total of 10 percent change, then the member has exhausted that liberty.

Senator MILLIKIN. That, too, is my understanding. [Continues reading:]

> (ii) does not exceed a further ten percent of the initial par value, the Fund may either concur or object, but shall declare its attitude within 72 hours if the member so requests.

What happens in that case, if the fund objects?

Mr. SOUTHARD. If the fund objects strenuously, several things may happen. Its objection may deter the member, and the member

may yield, or there may be, with the acquiescence of the member, a discussion which runs long beyond 72 hours.

I cite the French case, where it ran on for an axious week.

Senator MILLIKIN. Let me ask you this, Mr. Southard: The member's action on that does not result in excommunication, does it?

Mr. SOUTHARD. Not necessarily.

Senator MILLIKIN. I mean, he can take it?

Mr. SOUTHARD. Oh, I see what you mean. Yes. If the fund objects, the member may just acquiesce in the objection.

Senator MILLIKIN. He can acquiesce in the fund's objection, or he can go ahead and make his reduction?

Mr. SOUTHARD. Yes; although, if he makes his reduction, he then becomes subject to whatever sanctions the fund wishes to impose. That is in article IV, section 6, "Effect of unauthorized changes."

Senator MILLIKIN. Then, subparagraph numbered (iii) goes on to say, reading it with the preceding sentence, the controlling sentence:

> If the proposed change, together with all previous changes, whether increases or decreases * * *.
> (iii) is not within (i) or (ii) above, the Fund may either concur or object, but shall be entitled to a longer period in which to declare its attitude.

Mr. SOUTHARD. In other words, more than 20 percent, really.

Senator MILLIKIN. That is more than 20 percent.

Mr. SOUTHARD. The Mexican case is one of that sort.

Senator MILLIKIN. The fund has the power, out of its own authority, to make a uniform change in par values all the way across the board?

Mr. SOUTHARD. Yes; that is right.

Senator MILLIKIN. Has it done so?

Mr. MCNEILL. Subject to the limitations in article IV, section 7.

Mr. SOUTHARD. It has not done that, of course.

Senator MILLIKIN. But it could do that? And bind all of the members; is that correct?

Mr. TASCA. No, sir.

Senator MILLIKIN. Bind all but an objecting member; is that right?

Mr. TASCA. That is right.

Senator MILLIKIN. So one member could object to an all-the-way-across-the-front proportionate reduction?

Mr. SOUTHARD. By a majority of the total voting power, the fund could take that attitude.

Mr. MCNEILL. May I qualify that by pointing out that any member which has 10 percent or more of the fund quota must agree to a uniform change before it can be effected, so that it goes beyond the veto just as to its own exchange rate? But a member that has more than 10 percent of the quota may object to a uniform change.

Mr. SOUTHARD. In other words, we could block it.

Senator MILLIKIN. May we summarize it in this way: Except for the power of the fund to make a proportionate all-the-way-across-the-board reduction, you cannot make a reduction in any member's par without that member's consent; is that correct?

Mr. SOUTHAED. That is right.

Senator MILLIKIN. I notice in the booklet called the International Monetary Fund, Schedule of Par Values, seventh issue put out by

the fund, dated Washington, D. C., January 1, 1949, there is a footnote at the bottom of page 1, as follows [reading]:

In January, 1948, the French Government made a proposal to the Fund which included a change in par value of the franc. On January 26, 1948, the proposal of the French Government was put into effect without the approval of the Fund, and at the present time there is no par value for the French franc agreed with the Fund. The proposal of the French Government related to some but not all of the separate currencies in French non-metropolitan areas, but all of these separate currencies have been omitted from the Schedule at the request of the French Government. A par value for French Indo-China has never been established.

Will you give us a little more illumination on the relation of member France to the fund, so far as its own currency is concerned?

May I ask you this prefatory question:

Did France have an official rate at the beginning?

Mr. SOUTHARD. That is right. It had one until roughly a year ago.

Senator MILLIKIN. Can you tell me offhand how many dollars France bought from the fund under that official rate?

Mr. SOUTHARD. All of the drawings that France made, of course, were made when she had an official par value.

The total was $125,000,000, all of which was bought between May 8, 1947, and October 6, 1947. If my memory is correct, the par value during that period was 119.

Senator MILLIKIN. What is the unofficial rate at the present time?

Mr. SOUTHARD. The present dollar rate, the effective free market dollar rate, is 318.

Mr. Tasca, do you recall that?

Mr. TASCA. The open market rate under the French control system, that is, excluding the black-market rate, has been in the neighborhood of 318, I believe. The black-market rate is up around 400.

Mr. SOUTHARD. We have them here, Senator, at page 63 of the blue book that you were using, the statistics book. If you will look at the top of the page, at the upper right, you will find it. You will see there the selling rates, the francs per United States dollar, and the free rate of 318, which gives you what you might call an export rate, of 266, on the kind of 50–50 mixing system which we were describing in connection with Italy.

There is a black market, of course, beyond that.

Senator MILLIKIN. I was going to ask you: What is the black-market rate?

Mr. SOUTHARD. The black market has been improving very materially. I am trusting solely to memory, Senator, but it was quoted to me in the last 48 hours, I believe, as around 390. But I would be glad to send you, for the record, a more accurate statement of the black market.

Senator MILLIKIN. May I ask you what the fund is doing to get France back into the system?

Mr. SOUTHARD. France has made several changes since January 1948, in consultation with the fund. Each of those changes has been made in consultation with the fund. Each of them has been accepted by the fund as a step in the right direction.

For example, as to Switzerland, the Swiss franc was pulled into the currency group, which originally was just the dollar and the escudo. Belgium was virtually pulled into the exchange group. The Belgian tourist rate in France, the rate for Belgian tourists, was made parallel with the rate of the United States tourist was using, namely, the

official legal free rate. Each of those legal changes was, if you will, a change in the right direction.

So far, France has not come into the fund with any definitive consolidation proposal, which would mean a new par, acceptable to the fund. Also, France has effectively eliminated the most discriminatory provision of its original proposal, namely, that there would be one trading rate for the United States dollar and the escudo, on the basis of the setting up of a free market for the convertible currencies, and an official rate of 214, and then having 50–50 mixing for trade with the United States and Portugal. But with respect to all other currencies in the world, there was no free rate authorized, and therefore all trade would take place at the equivalent of the 214 rate.

That discrimination has, if I remember correctly, been eliminated, at the instance of France, and now the par, or if you will, the effective rate for the other countries for trade purposes is calculated on the basis of the average dollar rate that our traders are using with France. That is another step, you see, toward consolidating the rates.

So that the French, while they couldn't agree with the fund originally that the step they were taking was not the step to take, have stayed in consultation with the fund, and every step they have taken since has been in the right direction.

Senator MILLIKIN. May I ask you: Did the French proposal exceed the limits which it could bring about through its own action?

Mr. SOUTHARD. You mean the 20 percent rule? Yes, it was from 119 to 214, you see. A sizable percentage change.

Senator MILLIKIN. Now may I invite your attention again to your bluebook, called International Financial Statistics, February 1949, volume II, No. 2 at pages 20 and 21?

The heading of the tabulation is "Prices in Terms of United States Dollars."

We are dealing here, in these tabulations, with index numbers.

In 1946, the index on export goods from the United States was 151.

In the latest month of 1948, which was November, it was 189.

Under the heading of "All Goods," in 1946, the index number was 140.

In the latest month of 1948, which was December, it was 190.

For import goods, in 1946, it was 161.

In the latest month of 1948, November, it was 220.

Generally speaking, the prices of commodities all over the world, in terms of dollars, have increased, have they not? Over that comparable period?

Mr. SOUTHARD. Yes.

Senator MILLIKIN. That lessens the value of the dollar, does it not?

Mr. SOUTHARD. In terms of the purchasing power of the dollar?

Senator MILLIKIN. Yes. Purchasing or selling power, either one.

Mr. SOUTHARD. Yes.

Senator MILLIKIN. Under your statistics, here, I could multiply these horror exhibits, tending to show the unreality of the parities which you have been maintaining, but I believe that that is sufficient for present purposes.

Now, let me invite your attention again to this free gold business.

Mr. SOUTHARD. Senator, did you want me to make any comment at all on this suggestion of unreality of rates?

Senator MILLIKIN. Yes, I would be very glad to have that.

Mr. SOUTHARD. I don't want to appear sensitive, unduly sensitive, to the charge that the structure of rates is unreal.

Senator MILLIKIN. This is very important, and if it is not unreal, we ought to be instructed.

Mr. SOUTHARD. When the fund originally accepted par values, it did so on the basis of rather careful study and on the basis of a public statement. This was in press release No. 4, on December 18, 1946. At that time the fund said, in part [reading]:

> The initial par values are, in all cases, those which have been proposed by members, and they are based on existing rates of exchange. The acceptance of these rates is not, however, to be interpreted as a guaranty by the fund that all the rates will remain unchanged. As the Executive Directors of the fund stated in their first annual report, issued in September: "We recognize that in some cases the initial par values that are established may later be found incompatible with the maintenance of a balanced international-payments position at a high level of domestic economic activity. * * * When this occurs, the fund will be faced with new problems of adjustment and will have to recognize the unusual circumstances under which the initial par values were determined."

I won't complete all of that.

> The fund realizes that at the present exchange rates there are substantial disparities in price and wage levels among a number of countries. In present circumstances, however, such disparities do not have the same significance as in normal times. For practically all countries, exports are being limited mainly by difficulties of production or transport, and the wide gaps which exist in some countries between the cost of needed imports and the proceeds of exports would not be appreciably narrowed by changes in their currency parities.
>
> In addition, many countries have just begun to recover from the disruption of war, and efforts to restore the productivity of their economies may be expected gradually to bring their structures into line—

and so on.

Senator, I realize that was as of December 1946, but I do want to indicate that the fund itself, the Directors of the fund, were aware that the structure of the rates which they had approved would need continuous examination.

How far the present structure of rates is out of line with that which would be necessary to bring about effective international balance, I don't pretend to know at the moment. But I would want to say that the mere fact that there has been a world-wide inflation does not in and of itself mean that the exchange rates are out of line, because, as you have said, the inflation has been world-wide. You have cited only the United States, but on the basis of your generalization, when you run down these columns, you find even by inspection a certain pattern of uniformity in these price movements.

I also think it is worth while observing, as can be noted in this same publication, International Financial Statistics, on pages 14 and 15, that, taking just the export figure, the total world exports in 1948 were running at about $52,000,000,000. United States aid has financed a certain amount of that trade, but we are fully familiar with the figures, and it hasn't been a very large percentage of that trade. There has been a very considerable amount of trade carried on at this structure of rates. The trade has been increasing and not decreasing. We ourselves, on the import side, have bought more and not less, as time has gone on, in the last couple of years. Certainly the question of how far the structure of exchange rates needs to be changed, even relating to the ERP area, as Secretary Snyder said in his recent testi-

mony before the two Foreign Relations Committees, is something which needs the most anxious examination. But, I do not personally believe that we can easily generalize that the whole structure of parities is unreal in the sense that it all needs a radical overhauling. A number of these parities, I suspect, need no overhauling at all. Others, I suspect, need overhauling.

Senator MILLIKIN. I should think that that would be perfectly obvious.

When was the fund established?

Mr. SOUTHARD. It got to work in December of 1946.

Senator MILLIKIN. December of 1946.

Mr. SOUTHARD. Yes. It has had 2 years at this job.

Senator MILLIKIN. We have had just 2 years since the establishment of the fund?

Mr. SOUTHARD. No, but it was only in late 1946 that it got to work.

Senator MILLIKIN. Internal economic factors and external economic factors have been operating on these moneys, but so far as the official parity is concerned, they have remained stationary. I suggest that there must be a lot of artificiality in it; let us not say it is completely artificial, but there must be a lot of artificiality.

If I misunderstood you, there is no point in going into this.

I gathered that you were making the point that because of domestic producing difficulties, our exports were not consequential enough to really have much importance, so far as these exchange rates are concerned.

Mr. SOUTHARD. Oh, no.

Senator MILLIKIN. You did not mean to say that?

Mr. SOUTHARD. I did not mean to say that, no; on the contrary.

Senator MILLIKIN. I notice, under the heading of "Exports," North America exported $16,000,000,000 plus, Central America $1,500,000,000 plus; South America, $4,976,000,000, Europe, $18,905,000; and the import figures, on the other side of the ledger, are equally significant.

Mr. SOUTHARD. Oh, no; I did not intend at all to minimize that. In fact, on the contrary, the exchange rates have made possible the carrying on of a very important amount of foreign trade.

Senator MILLIKIN. The exchange rates are very important, for that reason; they can constitute a real hindrance to trade, or they can constitute an encouragement to trade.

Mr. SOUTHARD. And I should say that the fund is as anxious as any organization could possibly be to have rates as realistic as international cooperation will make them. That is its real job.

Senator MILLIKIN. The fund establishes the value of gold at what figure? $35, is it not?

Mr. SOUTHARD. Of course, the price of gold is $35; the fund is using the weight and fineness of the United States dollar as a bases for expressing par values, rather than itself establishing a price. It amounts to the same thing.

Senator MILLIKIN. In its conversions, does it not figure at $35 an ounce?

Mr. SOUTHARD. Yes, because article IV, section 1, provides that [reading]:

> The par value of the currency of each member shall be expressed in terms of gold as a common denominator, or in terms of the United States Dollar of the weight and fineness in effect on July 1, 1944.

Senator MILLIKIN. Has there been any change by the fund in its method of valuing gold since its establishment?

Mr. SOUTHARD. No.

Senator MILLIKIN. There is a permissible margin "up" and "down" under these articles of agreement of the fund; is that not correct?

Mr. SOUTHARD. Yes, there is a small margin. Isn't there, Mr. McNeill?

Mr. MCNEILL. Yes.

Senator MILLIKIN. I am reading from an article that appeared in the New York Herald Tribune, Sunday, March 6, 1949, by H. Eugene Dickhuth, which says [reading]:

The vain struggle for a free gold market assumed several new aspects last week which, to some, were as exciting as the doings of the pyramid friendship clubs. South Africa released its three-point answer to the International Monetary Fund's criticism of Cape Town's recent gold policies. The three issues involved are the sale of 100,000 ounces of gold in processed form above official gold prices, the manufacture for export of gold articles above parity, and the monetary price of gold.

Is South Africa a member of the fund?

Mr. SOUTHARD. Yes, sir.

Senator MILLIKIN. It does have a par value?

Mr. SOUTHARD. Yes, sir. And has a single exchange rate, substantially.

Senator MILLIKIN. Going on [reading]:

On the first point the Union Government in a communication from Dr. J. E. Holloway, South African Secretary of Finance, to Camille Gutt, managing director of the fund, says that the sale is an experiment and that the Capetown Government will satisfy itself that "the gold is used for customary industria.l professional, or artistic purposes."

To this end, the fund will be given every opportunity "of bringing evidence to its notice of the gold not being so used," the telegram says.

Apparently they are now quoting information which South Africa is giving to the fund.

"If any evidence should be brought or obtained which casts doubts on the bona fides of the transaction, the Union Government would not want to proceed with it." Dr. Holloway adds he is willing to consult with the fund on matters of mutual interest, but that "The final decision rests not with the fund but with the Government, which will give due weight to any tangible evidence submitted by the fund."

Does the final decision rest with the Government, the South African Government, in this particular case? Or with the other governments that wish to go and do likewise?

Mr. SOUTHARD. In my judgment, it does not.

Senator MILLIKIN (continues reading):

On the second question, the export of fabricated gold, the safeguards demanded by the Fund will be fully complied with "inasmuch as the gold will be manufactured completely under Government supervision," and appointment of an observer is being invited. "Beyond this, the matter falls outside the scope of the Articles of Agreement of the Fund," South Africa observes.

Does the fund agree that, beyond the matter mentioned, the subject is outside of the jurisdiction of the fund?

Mr. SOUTHARD. I do not agree, Senator, and I do not believe that the fund agrees.

Senator MILLIKIN: Going on [reading]:

On the question of the $35 price, Capetown remarks that this figure was fixed in 1944, "with express provision of a method of changing it."

What is the method of changing the value of the gold?

Mr. SOUTHARD. The only way that the fund could tackle this is in section 7 again of article IV: Uniform Changes in Par Values. Because otherwise, you see, you fall back on a par value which is tied to the gold content of the United States dollar as of 1944.

Senator MILLIKIN. It would have to be a uniform proportionate change?

Mr. SOUTHARD. In other words, the fund doesn't set a price of gold, as such, in its articles. The fund uses the United States dollar fineness, and hence could get at this, if it were inclined to do so, only by indirection, through a uniform change in par values.

Senator MILLIKIN. Did it not adopt, in connection with its conversions, and in its relation to the United States dollar, the United States standard as to the value of gold?

Mr. SOUTHARD. Yes.

Senator MILLIKIN. All right. Going on [reading]:

On the question of the $35 price, Capetown remarks that this figure was fixed in 1944 "with express provision of a method of changing it."

You are suggesting that the only way that could be changed would be all-the-way-across-the-board, and, as was developed this morning, any country affected could refuse, under the articles of agreement, to abide by the change, so far as its currency is concerned.

Mr. SOUTHARD. And there are at least two countries that have enough votes to object to the whole thing.

Senator MILLIKIN. If they did?

Mr. SOUTHARD. If they did.

Senator MILLIKIN. Yes. Going on [reading]:

"Since that price was fixed, all other prices—"

Mr. SOUTHARD. Could I just interject one more thing, which Mr. McNeill suggests would be of interest to mention in the record? That section V of the Bretton Woods Agreement Act specifically provides—I won't read the language—that, unless Congress were to approve, the United States Director could not agree to any such change.

Senator MILLIKIN. That is included in that article which tells the Director how to vote and how not to vote on certain matters?

Mr. SOUTHARD. Certain acts are not to be taken without authorization.

Senator MILLIKIN. Going on with the quote [reading]:

"Since that price was fixed—"

he is referring to the $35-per-ounce price.

"all other prices have skyrocketed, and this has made the fund's currency price of gold unrealistic. The resulting increasing distortions in the pattern of international trade show the growing danger of attempting to maintain disequilibrium," Dr. Holloway said.

This is described as a threat to all gold-producing countries, and "therefore, did not undermine exchange policies—it is the fund's efforts to bolster up the unrealistic prices which are actually undermining exchange stability." The South African Government also reserves the right to criticize the fund.

Is that a correct statement of the South African viewpoint toward what it claims are unrealistic features of fund management?

Mr. SOUTHARD. Senator, it is not a verbatim statement, not a verbatim quoting, of the whole paragraph VII of the South African press

statement of the other day. I am just trusting to my memory. I do not have the statement here. I should be glad to submit an unofficial copy for the minutes. It is substantially correct, for your purpose, I should say.

Senator MILLIKIN. Let me ask you again: The fund has not made any change in its method of estimating the value of gold since its establishment?

Mr. SOUTHARD. That is right.

Senator MILLIKIN. May I ask: Does it contemplate any change?

Mr. SOUTHARD. Not to my knowledge.

Senator MILLIKIN. Thank you very much, Mr. Southard.

The CHAIRMAN. Any further questions?

Is there anything you wish to put in the record, Senator?

Senator MILLIKIN. I do not believe so, Mr. Chairman. I should like to ask one more question.

In the fund's relations with the contracting parties, it would base itself on these official parities that we have been discussing?

Mr. SOUTHARD. That is right.

Senator MILLIKIN. And on these methods of valuation of gold which we have been discussing?

Mr. SOUTHARD. Yes.

The CHAIRMAN. The public hearing is closed; and, in executive session on Thursday, we will give consideration to this matter.

(Whereupon, at 11:50 a. m., the committee recessed, until Thursday, March 10, 1949, at 10 a. m.)

×