

STAFF ANALYSIS OF CERTAIN ISSUES  
RAISED BY THE GENERAL AGREEMENT  
ON TARIFFS AND TRADE

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PREPARED BY THE STAFF  
OF THE  
COMMITTEE ON FINANCE  
UNITED STATES SENATE  
RUSSELL B. LONG, *Chairman*

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## The General Agreement on Tariffs and Trade (GATT)

### INTRODUCTION

The Committee on Finance directed its staff to prepare a memorandum on certain provisions of the General Agreement on Tariffs and Trade which appear to discriminate against U.S. commerce, or which appear to be inadequate guides for the establishment of fair and reciprocal principles for governing the expansion of world trade. This memorandum is not an exhaustive treatment of all the GATT principles. Rather, it attempts to highlight some of the issues raised by the GATT which the staff feels are important.

### GATT AND THE INTERNATIONAL TRADE ORGANIZATION

The collapse of international trade in the 1930's and the resulting political and economic effects led some world leaders to conclude that new international economic institutions were essential for international cooperation in international trade and payments matters. The ultimate goals envisaged for such institutions were the prevention of war and the establishment of a just system of economic relations.

During World War II preparations were underway for the establishment of these institutions. The Bretton Woods Conference in 1944 resulted in the emergence of the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD). But it was recognized that an international organization to regulate trade was a necessary complement to the IMF and the IBRD.<sup>1</sup> During the war years, the U.S. State Department had prepared a draft charter of an International Trade Organization.<sup>2</sup>

At the first session of the United Nations, the Economic and Social Council resolved that a conference to draft a charter for an ITO should be called. Four conferences were held. The last of these conferences was held in Havana from November 21, 1947 to March 24, 1948.

The ITO never came into being. Many of its provisions were considered too extreme. They would have amounted to a virtual delegation of congressional tariff setting and trade regulating powers under the Constitution to the Executive.

To fill the gap caused by the death of the ITO, many of the clauses in the drafts of the ITO charter were taken and put into a document called the General Agreement on Tariffs and Trade (GATT).

<sup>1</sup> The Bretton Woods Conference resolved: "Complete attainment of \* \* \* purposes and objectives [of the IMF] \* \* \* cannot be achieved through the instrumentality of the Fund alone; \* \* \*" and recommended that the government seek agreement "to reduce obstacles to international trade and in other ways promote mutually advantageous international commercial relations \* \* \*"

<sup>2</sup> U.S. State Department Document 2411, December 1945.

The basic GATT agreement was completed in 1947 but it has never been submitted to the Congress for its study and approval. It is being observed by the United States through a "protocol of provisional application."

The "protocol of provisional application" stated that the eight governments who signed it would undertake "not later than November 15, 1947, to apply provisionally on and after January 1, 1948:

(a) Parts I and III of the General Agreement on Tariffs and Trade, and

(b) Part II of that Agreement to the fullest extent *not inconsistent* with existing legislation."<sup>3</sup>

This protocol is still in effect, although the GATT has been amended a number of times and affected by other protocols, including some that are not in force themselves. Thus, the basic treaty is a complex set of instruments, applying with different rigor to different countries.<sup>4</sup>

In spite of the fact that the GATT has never been specifically approved by the U.S. Congress as a treaty or otherwise, the executive branch trade spokesmen tend to view GATT as "the law." Whenever the Congress contemplates taking any action to protect a domestic interest, the Executive pointedly reminds it of the "international commitments" of the United States.<sup>5</sup> It is not clear however, that the executive branch demands the same respect for adhering to "international commitments" from other signatories of the Agreement as it demands of itself.

For example, Japan has import quotas on 98 commodities without any finding of serious injury; Britain imposed a "surtax" on imports

<sup>3</sup> The eight signatures, some with reservations, were Australia, Belgium, Canada, France, Luxembourg, The Netherlands, United Kingdom, and the United States.

<sup>4</sup> For example, the GATT provisions regarding subsidies apply to some countries, but not to others. Even the fundamental principle of GATT—nondiscrimination—has been compromised by numerous exceptions in recent years. The GATT provisions have not prevented the widespread use of nontariff barriers in recent years as substitutes for tariff protection.

<sup>5</sup> The prospect of "retaliation" against U.S. exports if the United States applied "unilateral" restrictions to foreign imports, was discussed by Secretary of State Dean Rusk before the Committee on Finance in these terms:

"Retaliation would simply be what is permitted by the rules of the game as that game is now practiced by some seventy countries accounting for about 85 percent of world trade. I refer, of course, to the General Agreement on Tariffs and Trade—the GATT.

"The GATT is essentially a code of conduct for fairplay in international trade. The United States played a major role in its negotiation in 1947. Like many of the great initiatives of the early post-World War II days, it reflected a conviction that there must surely be a better way to organize man's affairs than had been the case in the preceding decades of self-centered nationalism. In the area of international trade policy, the GATT represents an attempt to prevent a repetition of some of the economic blunders of the 1930's.

"The GATT does this by establishing a *legal framework* for the stability of trade concessions negotiated in good faith among sovereign countries. We accord others access to our market in return for the right of our exporters to sell in their markets. If we impair the access we have agreed to give others, two courses of action are available under the GATT. We ourselves can offer reductions of our import barriers on other products equivalent in trade value to the impaired concession or the foreign country can withdraw concessions affecting an equivalent trade value for American exports in the foreign market. This may sound a bit complicated—the *legal language* of the GATT is much more complicated—but the idea is clear. It is retaliation—by agreement among all parties in advance that restrictive action by one party entitles the aggrieved party, as a matter of *legal right*, to compensatory action." [Emphasis supplied.]

and an "import deposit scheme," in violation of GATT; the Continental Europeans have entered into "special commercial arrangements" on citrus fruits and other products in violation of GATT MFN principles, and its common agricultural policy is significantly more protectionist than the previous individual country restrictions on agricultural imports, another violation of GATT principles. Outside of complaining, the United States has done nothing to demand compensation or to retaliate against these violations of GATT principles.

The GATT was born more than 20 years ago at a time when Europe and Japan were in ruins and the United States completely dominated world trade as well as other matters. In the year in which GATT was negotiated, 1947, the United States had a \$10 billion trade surplus. The attitude of many U.S. officials at that time was one of redistributing the wealth. We embarked on an ambitious Marshall plan aid program and later on a technical assistance program. U.S. officials were worried about the so-called "dollar gap" meaning that foreign countries did not have enough dollars to purchase needed imports. It is somewhat understandable that under these circumstances, the GATT would contain certain provisions designed to favor European countries and Japan.

Conditions in 1970 are vastly different from those in 1947. At this point, the GATT should be redrawn to take out the inequitable provisions which effectually discriminate against certain countries, mainly the United States, and to put in new provisions to cope with new conditions in the world economy.

#### MOST-FAVORED-NATION TREATMENT

Nondiscrimination is intended to be the cardinal principle of GATT. It is embodied in article I. What you give to one you give to all. This principle is aimed at making anathema discriminatory bilateral trade agreements, preferences, and special commercial relationships.

However, the GATT sanctions the departure from unconditional MFN treatment in the case of customs unions and free trade areas (article XXIV), certain exceptions in article XIV, and the existence of certain preferences in article I, paragraph 2. These "exceptions" effectively allow European countries to depart from MFN treatment when it suits their commercial interests.

The United States generally observes the unconditional MFN principle although in recent years the United States has compromised on its rigid adherence to this GATT principle.<sup>6</sup> This is particularly

<sup>6</sup> For 140 years, until 1923, the United States adhered to a "conditional" most-favored-nation principle, under which we would extend tariff and other trade benefits negotiated with one party to another, only if the latter offered reciprocal benefits. Under "conditional" MFN, no country would get a "free ride." The major considerations in the U.S. decision to change to an "unconditional" MFN principle were:

A. By 1923 international commercial relations were dominated by tariff rates and regulations, whereas previously tariffs were of relatively minor importance as compared with the right to trade at all. Bilateral negotiations with such trading partners were cumbersome and time-consuming.

B. The United States had become a major manufacturing nation and sought immunity from discrimination by other countries in order to compete abroad for markets.

C. Under the Tariff Act of 1922, the President was authorized to impose additional duties on the whole or on any part of the commerce of any country which discriminated against American commerce. Consistency, therefore, required that we not initiate discriminatory rates.

evident in the U.S. request for a GATT waiver on the United States-Canadian automobile pact and the Presidential announcements in favor of a system of special "generalized tariff preferences" for less developed countries.

One of the provisions of article XXIV in defining customs unions was that such formations were required to "facilitate trade between the parties" by eliminating regulations of commerce on "substantially all trade between constituent territories of the union." In fact, however, this was violated in 1952 when the six European nations set up the European Coal and Steel Community to pool resources of coal, steel, iron ore, and scrap in a single market without internal frontier barriers. The GATT considered this project as limited to one sector of the economy and therefore not covered by the provisions relating to customs unions. Nevertheless, in light of the fact that the ECSC would have been agreed to by the six with or without GATT approval, the GATT granted a waiver.

France, West Germany, Italy, Belgium, Luxembourg, and The Netherlands signed in 1958 the Treaty of Rome, establishing the European Economic Community, a common market agreement. The legal question of whether the Rome Treaty is consistent with article XXIV of the GATT has never been settled but is obviously academic. Since the common market of Europe was established in 1958, other important trade blocs have also developed. The outer countries of Europe established the European Free Trade Association in 1959. The countries of South America signed the Montevideo Treaty in 1960, creating the Latin American Free Trade Area (LAFTA), a free trade association among the South American countries. A common market among the Central American countries is in existence and now at Punta del Este agreement has been reached to integrate the Central American Common Market and the Latin American Free Trade Area into a Latin American common market. Japan is currently considering the establishment of a free trade area or common market with Australia and New Zealand (which already have a free trade area between themselves) hoping that it will later include Canada and the United States.

There are also tariff preferences, "reverse preferences" and special commercial arrangements sprouting up all over the world.

In Asia, Australia has unilaterally violated MFN by granting preferences to less developed countries. There is growing sentiment of a Pacific Free Trade Area among Japan, Australia, and New Zealand. The British Commonwealth preference system violates the MFN principle. In short, there are very few countries if any, who observe unconditional MFN treatment, without exceptions.

But, the problem is that the exceptions are growing and threaten to make the MFN principle a mockery. The EEC has special preferences for its 19 former African colonies which in turn give "reverse preferences" to EEC goods. The EEC has concluded or is in the process of negotiating discriminatory commercial arrangements with Greece, Turkey, Israel, Spain, Tunisia, and Morocco. Applications for membership with the community are being considered for Austria, Spain, Ireland, Great Britain, and others. All this involves a massive movement away from MFN.

Tariff preferences are by nature discriminatory, and yet the whole developed world seems to have accepted this as a necessary concession to the demands of the less developed countries. In short, the principle of nondiscrimination is being observed more and more in the breach.

It concerns us to see developing in the world a situation in which more and more trading partners of the United States are being incorporated in regional trade blocs which do not adhere to the unconditional most-favored-nation clause. The United States has eschewed joining a free trade area with North Atlantic countries mainly because of its concern for dividing up the world into competitive regional blocs. But, we have actively supported the participation of other countries in regional trade blocs, which threaten to accomplish the same unwanted result. In addition, as more countries enter into regional trade blocs the U.S. competitive position is bound to suffer from the inherently discriminatory nature of these arrangements. This fact has important ramifications in determining a future U.S. trade policy.

#### GATT PROVISIONS ON SUBSIDIES AND BORDER TAXES

Another important area in which GATT principles are both inadequate and discriminatory concerns subsidies and border tax adjustments.

In essence, the GATT provisions on subsidies and border taxes have been interpreted to permit the rebate of "indirect taxes" (such as value added or turnover taxes) on exports and the imposition of such taxes on imports, but to deny equivalent treatment for "direct taxes," such as income taxes.

#### TAX SHIFTING ASSUMPTIONS IN GATT

The entire border tax adjustment theory and practice is based on the assumption that "indirect taxes" are always and wholly shifted forward into the final price of a product and that "direct taxes" are always and wholly shifted backward to the factors of production.

The distinction between direct and indirect taxes on the basis of their presumed difference in incidence, though generally accepted two generations ago, is now widely questioned. All taxes on business are increasingly thought of as costs, with varying effects and differential impacts depending on their form, but in one way or another constituting a cost which must be recovered from customers or those who supply resources if the enterprise is to survive. Indirect taxes, at least in the short run, are partially absorbed by the manufacturer depending upon the degree of competition in his markets, and in the markets for his raw materials. Direct taxes, especially the corporate income tax, are shifted forward to the price of the product sold to consumers to the extent that market conditions allow. Well known economists and fiscal experts brought together in a symposium, organized by the Secretary-General of the Organization for Economic Cooperation and Development, in September 1964, reached the following conclusions, (1). "In practice, indirect taxes are not fully shifted into product



prices . . ." and, (2) "Certain direct taxes, and particularly the corporate profits tax, may be partially shifted into product prices: although the degree of shifting may vary from country to country."

Businessmen operate with target rates of return in mind and will pass-on all costs, including taxes, into the price structure of their products to the extent that price elasticity of demand in the market will permit. Thus, modern economic theory suggests that the distinction in the GATT treatment of direct and indirect taxes is an extreme and arbitrary assumption which does not stand the test of economic reality. The Business and Industry Advisory Committee of the OECD (BIAC) in a report on the problem of tax shifting stated: "In a strongly competitive situation the prices obtainable—and hence the degree of tax shifting—are substantially determined by the market itself." In short the GATT on border taxes are not "trade neutral."

Actually, the distinction between "direct" and "indirect" taxes is itself somewhat arbitrary and appears to be based more on prevailing practice than on reason. The distinction is, in fact, not made explicit in the GATT provisions, but flows from interpretations of, and amendments to, various provisions. For example, value added taxes, according to GATT classification are considered to be indirect taxes. However, value added taxes fall on both costs and profits of the producer (value added being defined as the difference between the value of a firm's purchases and sales) and to the extent that they fall on profits how can they be distinguished from a profits tax in effect? Corporate profits taxes are classified by GATT as "direct" falling entirely on the producer. Logically, if corporate taxes were reduced, prices should fall. But to the extent that tax reductions stimulate increased spending and demand, they could stimulate price increases. For example, there is no evidence that corporate tax reductions in 1964, led to price reductions.

#### HISTORY OF GATT DISTINCTION

The provisions in GATT relevant to border taxes and subsidies, basically articles II, III, and XVI, are drawn from the Havana Charter of the 1940's. These provisions were themselves either a compromise (for example, article XVI) or were adapted from provisions of numerous bilateral trade treaties, including especially the United States-Canada reciprocal trade agreement of the midthirties.<sup>7</sup> The lack of precise or concentrated thinking about the border tax problem is illustrated by the absence of explicit definitions of key concepts.<sup>8</sup>

There is no unified section of the GATT which deals exclusively with border taxes and is quite clear that the provisions of GATT which do cover border tax adjustments were not the product of carefully reasoned theory, or of experience molded in the crucible of extensive usage.

<sup>7</sup> 49 Stat. 8960 (1936). Effective May 14, 1936.

<sup>8</sup> For example, the meaning of linking the import charge at the border with "charge \* \* \* applied, directly, or indirectly, to like domestic products" is not defined.

When the present GATT language was drawn up more than two decades ago, the question of border taxes did not appear to be a major one. Levels of indirect taxes were much lower. Under these circumstances, overlying simple and sweeping assumptions about tax shifting seemed acceptable, and already existing practices were incorporated in very general terms without searching examination.

#### IMPORT "EQUALIZATION" CHARGES

Border tax adjustments on the import side, i.e., import equalization charges, are permitted under Article II and III of the GATT, but only for "indirect taxes." Article II (Schedules of Concessions) provides that its terms shall not prevent any contracting party from imposing charges "equivalent to an internal tax imposed consistently with the provisions of paragraph 2 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". This exemption of indirect taxes gives a GATT blessing to the European practice of imposing "equalization" charges at the border. Article III (National Treatment of Internal Taxation and Regulation) provides in paragraph 2 thereof that "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." This article is apparently being ignored by European countries which impose discriminatory road taxes against larger American cars. Japan and other countries also discriminate against American cars through their tax system.

#### EXPORT REBATES

Article XVI, adopted in 1955 deals with the question of border tax adjustments for exports in the following terms:

The exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued shall not be deemed to be as subsidy.

This Article contains many vague terms which need clarification. For example, what is meant by "borne by the like product when destined for domestic consumption" or "remission of such duties or taxes in amounts not in excess of those which have accrued"? These terms seem to be an attempt to apply the "destination principle" to indirect taxes, but the meaning of indirect taxes itself is not at all clear.<sup>9</sup>

<sup>9</sup> This principle states that internationally traded commodities should be subject to some specified taxes of the importing country and exempt from similar taxes of the exporting country in order to avoid double taxation. The principle contrasts with (a) the origin principle as applied to other forms of taxation on transactions, (b) income taxes levied according to source of income, or domicile or residence of the taxpayer, and (c) property taxes imposed according to the situs of the taxable object.

In 1960, the contracting parties adopted a Working Party Report which listed a number of practices construed to be subsidies.<sup>10</sup> Among these were the remission of direct taxes or social welfare charges on industrial or commercial enterprises and "the exemption in respect of exported goods, of charges or taxes, other than charges in connection with importation or indirect taxes levied at one or several stages on the same goods if sold for internal consumption. The implications of practices listed in (b), (c) and (d) of footnote 10 below were not fully appreciated by the United States. They, in effect permitted the European countries to impose border taxes on imports and rebate indirect taxes on exports in accordance with their value added or cascade turnover taxes.

In the late forties and early fifties it is not surprising that U.S. trade officials were willing to incorporate existing commercial practices on border tax adjustments into the GATT agreement. There were much larger problems in international trade than border tax adjustments, which at that time were low—in the range of 2–4 percent and limited to around one-sixth of the goods traded—and then only in the case of a few nations. The United States and a \$10 billion trade surplus in 1947 which must have had an effect on our negotiators' attitudes.

But the failure to appreciate the consequences of excluding the so-called "indirect tax" rebates in 1960 from the general prohibition

<sup>10</sup> Point 5 of the report adopted on November 19, 1960, dealing with subsidies stated:

"The following detailed list of measures which are considered as forms of export subsidies by a number of contracting parties was referred to in the proposal submitted by the Government of France, and the question was raised whether it was clear that these measures could not be maintained if the provisions of the first sentence of paragraph 4 of Article XVI were to become fully operative:

"(a) Currency retention schemes or any similar practices which involve a bonus on exports or re-exports;

"(b) The provision by governments of direct subsidies to exporters;

"(c) The remission, calculated in relation to exports, of direct taxes or social welfare charges on industrial or commercial enterprises;

"(d) The exemption, in respect of exported goods, of charges or taxes, other than charges in connexion with importation or indirect taxes levied at one or several stages on the same goods if sold for internal consumption; or the payment, in respect of exported goods, of amounts exceeding those effectively levied at one or several stages on these goods in the form of indirect taxes or of charges in connexion with importation or in both forms;

"(e) In respect of deliveries by governments or governmental agencies of imported raw materials for export business on different terms than for domestic business, the charging of prices below world prices;

"(f) In respect of government export credit guarantees, the charging of premiums at rates which are manifestly inadequate to cover the long-term operating costs and losses of the credit insurance institutions;

"(g) The grant by governments (or special institutions controlled by governments) of export credits at rates below those which they have to pay in order to obtain the funds so employed;

"(h) The government bearing all or part of the costs incurred by exporters in obtaining credit.

"The Working party agreed that this list should not be considered exhaustive or to limit in any way the generality of the provisions of paragraph 4 of Article XVI. It noted that the governments prepared to accept the declaration contained in Annex A agreed that, for the purpose of that declaration, these practices generally are to be considered as subsidies in the sense of Article XVI: 4 or are covered by the Articles of Agreement of the International Monetary Fund. The representatives of governments which were not prepared to accept that declaration were not able to subscribe at this juncture to a precise interpretation of the term 'subsidies,' but had no objection to the above interpretation being accepted by the future parties to that declaration for the purposes of its application."

against export subsidies while including a specific prohibition against rebating "direct taxes", was a major blunder. The United States by that time had run into serious balance of payments difficulties. Western Europe had become a prosperous "third force." Giving away commercial advantages to prosperous Europe for the sake of their own internal tax harmonization objectives was an unwise and costly move, in which vague political objectives out-weighted clear commercial considerations.

#### BALANCE-OF-PAYMENTS SAFEGUARDS

Balance-of-payments considerations have exerted and will continue to exert a powerful influence on major countries' dispositions to deal with trade matters. Recent history shows that countries will adopt whatever measures they deem necessary to protect their balance of payments irrespective of GATT. The British imposed an import deposit scheme to control imports and prior to that they and the Canadians adopted import surcharges to protect their balance of payments. The French subsidized their exports even beyond what the inequitable GATT rules allow. In developed as well as the less developed countries quantitative restrictions and licensing arrangements are legion.

The GATT recognizes that member countries may have to protect their balance of payments and international reserve positions and to this end Article XII sanctions the use of quantitative restrictions (quotas). Export subsidies or import surcharges are not allowed under GATT rules as balance-of-payments adjustment mechanisms; import quotas are. This rigidity in the GATT flies in the face of other provisions of the GATT which are more flexible. Limiting available options to quotas also is inconsistent with the main emphasis of GATT to eliminate quotas as a trade protective device.

It is also difficult to understand why, if quotas are sanctioned by GATT as a balance of payments safeguard, the United States would be violating either the letter or the spirit of the agreement if it imposed quotas for balance of payments reasons—a position that has been stated by administration spokesmen. The United States has experienced deficits in its balance of payments in every year since 1950, with two exceptions, and its international reserve position has deteriorated substantially. This would appear to fully justify the application of Article XII quotas for the United States. Member countries in GATT should face up to the lack of flexibility in Article XII, and decide whether quotas should be the only recourse available to a country suffering from chronic balance of payments problems. In facing this issue, the member countries should consider that in recent years many countries have not hesitated to use whatever means they deemed necessary to restore equilibrium notwithstanding the GATT.

#### CONCLUSION

In a number of areas the GATT is deficient and discriminatory. Its exceptions to unconditional MFN treatment favor common markets and free trade areas, and threaten to break up the trading world into competitive regional blocs. Recent bilateral commercial arrangements involving the European Common Market and other countries do not even pretend to justify their existence under article XXIV. The United States could gradually become isolated as a trading

nation if it continues to adhere to a policy of encouraging other nations to join regional trade blocs which violate MFN principles, while eschewing U.S. participation in such arrangements under the theory of "multilateralism."

The GATT treatment of subsidies and import charges discriminate against countries relying principally on one form of tax structure—direct or income taxes—in favor of other countries whose revenues are derived from a different system—such as value added taxes.

The GATT safeguard on balance of payments is an anachronism and is inconsistent with other principles in GATT. Furthermore, in recent years major countries such as England and France have imposed import restrictions for balance of payments reasons in complete disdain of GATT principles.

The GATT does not even pretend to be a guide in agricultural trade which is now heavily controlled and subsidized, especially in the European Community.

In short, as presently constituted, the GATT is not a guide to fair trade. Its rules are often inequitable and outdated. It was written at a time when the United States held a virtual monopoly over production and trade and when the rest of the world suffered from an acute shortage of dollars. Trade at that time was mainly between unrelated parties at arms length transactions. Today, trade is increasingly becoming a movement of goods within a multinational business complex. The drafters of GATT may not have foreseen all the postwar economic and structural changes. But no one can claim that world conditions have not changed sufficiently to require a new look at the GATT. It is the view of the staff that the GATT should be redrawn to provide for principles of fair and free trade before the Congress approves its provisions.

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**APPENDIX A**

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**(Excerpts From the General Agreement on Tariffs and Trade  
Referred to in the Text of this Print)**

## ARTICLE I

### GENERAL MOST-FAVoured-NATION TREATMENT

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III, any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.

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 4 of this Article and which fall within the following descriptions:

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

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

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

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

3. The 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 are approved under paragraph 5 of Article XXV,<sup>1</sup> which shall be applied in this respect in the light of paragraph 1 of Article XXIX.

4. 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-favoured-nation and preferential rates provided for therein; if no preferential rate is provided for, the preferential rate shall for the purposes of this

<sup>1</sup> Pending the entry into force of the Protocol Amending Part I and Articles XXIX and XXX, this reference to Article XXV actually reads "sub-paragraph 5(a) of Article XXV," although paragraph 5 is no longer divided into sub-paragraphs (a), (b), etc., as was formerly the case. The present text of paragraph 5 was formerly sub-paragraph 5(a) of Article XXV.

paragraph be taken to be that in force on April 10, 1947, and, if no most-favoured-nation rate is provided for, the margin shall not exceed the difference between the most-favoured-nation and preferential rates existing on April 10, 1947;

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

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

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## ARTICLE II

### SCHEDULES OF CONCESSIONS

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

(b) The products described in Part I of the Schedule relating to any contracting party, which are the products of territories of other contracting 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 any internal tax imposed consistently with the provisions of paragraph 2 of Article III in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;



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

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

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

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

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

6. (a) The specific duties and charges included in the Schedules relating to contracting parties members of the International Monetary Fund, and margins of preference in specific duties and charges maintained by such contracting parties, are expressed in the appropriate currency at the par value accepted or provisionally recognized by the Fund at the date of this Agreement. Accordingly, in case this par value is reduced consistently with the Articles of Agreement of the International Monetary Fund by more than twenty per centum, such specific duties and charges and margins of preference may be adjusted to take account of such reduction; *Provided* that the Contracting Parties (i.e., the contracting parties acting jointly as provided for in Article XXV) concur that such adjustments will not impair the value of the concessions provided for in the appropriate Schedule or elsewhere in this Agreement, due account being taken of all factors which may influence the need for, or urgency of, such adjustments.

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

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

## ARTICLE III

## NATIONAL TREATMENT ON INTERNAL TAXATION AND REGULATION

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 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 compensate 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 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 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 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 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 internal quantitative regulations relating to exposed cinematograph films and meeting the requirements of Article IV.

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## ARTICLE XII

### RESTRICTIONS TO SAFEGUARD THE BALANCE OF PAYMENTS

1. Notwithstanding the provisions of paragraph 1 of Article XI, any contracting party, in order to safeguard its external financial position and its 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) Import restrictions instituted, maintained or intensified by a contracting party under this Article shall not exceed those 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 reserves of such contracting party or its need for reserves, including, where special external credits or other resources are available to it, the need to provide for the appropriate use of such credits or resources.

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

3. (a) Contracting parties undertake, in carrying out their domestic policies, to pay due regard to the need for maintaining or restoring equilibrium in their balance of payments on a sound and lasting basis and to the desirability of avoiding an uneconomic employment of

productive resources. They recognize that in order to achieve these ends, it is desirable so far as possible to adopt measures which expand rather than contract international trade.

(b) Contracting parties applying 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.

(c) Contracting parties applying restrictions under this Article undertake:

(i) to avoid unnecessary damage to the commercial or economic interests of any other contracting party;

(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; and

(iii) not to apply restrictions which would prevent the importation of commercial samples or prevent compliance with patent, trade mark, copyright, or similar procedures.

(d) The contracting parties recognize that, as a result of domestic policies directed towards the achievement and maintenance of full and productive employment or towards the development of economic resources, a contracting party may experience a high level of demand for imports involving a threat to its monetary reserves of the sort referred to in paragraph 2(a) of this Article. Accordingly, a contracting party otherwise complying with the provisions of this Article shall not be required to withdraw or modify restrictions on the ground that a change in those policies would render unnecessary restrictions which it is applying under this Article.

4. (a) Any contracting party applying new restrictions or raising the general level of its existing restrictions by a substantial intensification of the measures applied under this Article shall immediately after instituting or intensifying such restrictions (or, in circumstances in which prior consultation is practicable, before 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 the restrictions on the economies of other contracting parties.

(b) On a date to be determined by them, the Contracting Parties shall review all restrictions still applied under this Article on that date. Beginning one year after that date, contracting parties applying import restrictions under this Article shall enter into consultations of the type provided for in sub-paragraph (a) of this paragraph with the Contracting Parties annually.

(c) (i) If, in the course of consultations with a contracting party under sub-paragraph (a) or (b) above, the Contracting Parties find that the restrictions are not consistent with the provisions of this Article or with those of Article XIII (subject to the provisions of Article XIV), they shall indicate the nature of the inconsistency and may advise that the restrictions be suitably modified.

(ii) If, however, as a result of the consultations, the Contracting Parties determine that the restrictions are being applied in a manner involving an inconsistency of a serious nature with the provisions of this Article or with those of Article XIII (subject to the provisions of Article XIV) and that damage to the trade of any contracting party

is caused or threatened thereby, they shall so inform the contracting party applying the restrictions and shall make appropriate recommendations for securing conformity with such provisions within a specified period of time. If such contracting party does not comply with these recommendations within the specified period, the Contracting Parties may release any contracting party the trade of which is adversely affected by the restrictions from such obligations under this Agreement towards the contracting party applying the restrictions as they determine to be appropriate in the circumstances.

(d) The Contracting Parties shall invite any contracting party which is applying restrictions under this Article to enter into consultations with them at the request of any contracting party which can establish a *prima facie* case that the restrictions are inconsistent with the provisions of this Article or with those of Article XIII (subject to the provisions of Article XIV) and that its trade is adversely affected thereby. However, no such invitation shall be issued unless the Contracting Parties have ascertained that direct discussions between the contracting parties concerned have not been successful. If, as a result of the consultations with the Contracting Parties, no agreement is reached and they determine that the restrictions are being applied inconsistently with such provisions, and that damage to the trade of the contracting party initiating the procedure is caused or threatened thereby, they shall recommend the withdrawal or modification of the restrictions. If the restrictions are not withdrawn or modified within such time as the Contracting Parties may prescribe, they may release the contracting party initiating the procedure from such obligations under this Agreement towards the contracting party applying the restrictions as they determine to be appropriate in the circumstances.

(e) In proceeding under this paragraph, the Contracting Parties shall have due regard to any special external factors adversely affecting the export trade of the contracting party applying restrictions.

(f) Determinations under this paragraph shall be rendered expeditiously and, if possible, within sixty days of the initiation of the consultations.

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 the balances of payments of which are under pressure or by those the balances of payments of which are tending to be exceptionally favourable, 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.

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#### ARTICLE XIV<sup>1</sup>

##### EXCEPTIONS TO THE RULE OF NON-DISCRIMINATION

1. A contracting party which applies restrictions under Article XII or under Section B of Article XVIII may, in the application of such restrictions, deviate from the provisions of Article XIII in a manner having equivalent effect to restrictions on payments and transfers

<sup>1</sup> Text as amended Feb. 18, 1971, on which date Annex J was deleted.

for current international transactions which that contracting party may at that time apply under Article VIII or XIV of the Articles of Agreement of the International Monetary Fund, or under analogous provisions of a special exchange agreement entered into pursuant to paragraph 3 of Article XV.

2. A contracting party which is applying import restrictions under Article XII or under Section B of Article XVIII 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 to the trade of other contracting parties.

3. The provisions of Article XIII shall not preclude a group of territories having a common quota in the International Monetary Fund from applying against imports from other countries, but not among themselves, restrictions in accordance with the provisions of Article XII or of Section B of Article XVIII on condition that such restrictions are in all other respects consistent with the provisions of Article XIII.

4. A contracting party applying import restrictions under Article XII or under Section B of Article XVIII shall not be precluded by Articles XI to XV or Section B of Article XVIII 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, inclusive, or by Section B of Article XVIII, 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.

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## ARTICLE XVI

### SUBSIDIES

#### *Section A—Subsidies in General*

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

*Section B—Additional Provisions on Export Subsidies*

2. The contracting parties recognize that the granting by a contracting party of a subsidy on the export of any product may have harmful effects for other contracting parties, both importing and exporting, may cause undue disturbance to their normal commercial interests, and may hinder the achievement of the objectives of this Agreement.

3. Accordingly, contracting parties should seek to avoid the use of subsidies on the export of primary products. If, however, a contracting party grants directly or indirectly any form of subsidy which operates to increase the export of any primary product from its territory, such subsidy shall not be applied in a manner which results in that contracting party having more than an equitable share of world export trade in that product, account being taken of the shares of the contracting parties in such trade in the product during a previous representative period, and any special factors which may have affected or may be affecting such trade in the product.

4. Further, as from 1 January 1958 or the earliest practicable date thereafter, contracting parties shall cease to grant either directly or indirectly any form of subsidy on the export of any product other than a primary product which subsidy 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. Until 31 December 1957 no contracting party shall extend the scope of any such subsidization beyond that existing on 1 January 1955 by the introduction of new, or the extension of existing, subsidies.

5. The Contracting Parties shall review the operation of the provisions of this Article from time to time with a view to examining its effectiveness, in the light of actual experience, in promoting the objectives of this Agreement and avoiding subsidization seriously prejudicial to the trade or interests of contracting parties.

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ARTICLE XXIV

TERRITORIAL APPLICATION—FRONTIER TRAFFIC—CUSTOMS UNIONS AND  
FREE-TRADE AREAS

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 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.

4. The contracting parties 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 of a free-trade area should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories.

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 the free-trade area, or interim agreement, as the case may be; and

(c) any interim agreement referred to in sub-paragraphs (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 sub-paragraph 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 included 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 sub-paragraph (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 free-trade area.

8. For the purposes 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 Articles XI, XII, XIII, XIV, XV and XX) 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 XX) 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 a of 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 full 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.

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 arrangements 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.

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## ARTICLE XXX

### AMENDMENTS

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

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

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