

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES
Twenty-Second Session

DEFINITIVE APPLICATION OF THE GATT

Note by the Executive Secretary

Addendum

When this question was discussed at the meeting of the CONTRACTING PARTIES on 9 March the secretariat was requested to make available to delegations the information which was received from governments several years ago about their existing mandatory legislation, which was not in conformity with the provisions of Part II of the GATT, and about their intentions in the matter of accepting the General Agreement under Article XXVI. As stated in L/2375, the information which was received from governments in January 1955 concerning the former question was issued in documents L/309 and Addenda 1 and 2, and the information received from governments in September 1958 concerning the latter question was issued in document IC/W/77. Since the supply of these documents has been exhausted, they are reproduced as annexes hereto.

ANNEX I

EXISTING MANDATORY LEGISLATION

Information Received from Governments

(L/309)

The following replies have been received from governments concerning their existing mandatory legislation in response to the request of the CONTRACTING PARTIES that information on this subject should be supplied, as far as possible, before 15 January.

Ceylon, Finland, Japan and Pakistan have replied that there exists no mandatory legislation which requires their Governments to take action inconsistent with the provisions of Part II. (Pakistan indicates that this information is the result of a preliminary examination.)

Australia replies that, as a result of a preliminary examination, "except in a few minor cases relating to discrimination in internal taxation", it has no mandatory legislation requiring action inconsistent with the provisions of the Agreement.

The Danish and United Kingdom replies are reproduced below.

NOTE BY THE DANISH DELEGATION

The following is a reply to the question concerning existing mandatory legislation which might create difficulties in relation to Denmark's obligations under the General Agreement on Tariffs and Trade, assuming that the Agreement enters into force definitively under Article XXVI.

1. Pursuant to paragraph 12 in Article XVIII the Danish Government notified to the CONTRACTING PARTIES in August 1950 the legislation in Denmark concerning the trade in sugar and potato-starch; a more detailed explanation of the measures taken in this field was submitted at the same time. Without giving any particulars the Danish legislation on spirits and yeast was also brought to the attention of the CONTRACTING PARTIES, according to the above-mentioned provisions although the Danish Government was and still is of the opinion that the measures in force in Denmark for spirits and yeast were covered by the provisions for exceptions in the Agreement.

The Danish notifications were considered by the CONTRACTING PARTIES at their fifth session but no decision was passed in the matter, as the import restrictions in force pursuant to the above-mentioned legislation on the said products were maintained also by balance-of-payments reasons and therefore covered by the provisions in Article XII (document GATT/CP.5/25). Reference is made to the details submitted to the CONTRACTING PARTIES in August 1950.

2. Imported articles of paper and cardboard are taxed at the rate of 30 øre per kilogramme. Articles manufactured of paper and cardboard in Denmark are taxed through the tax levied on paper and cardboard used in the manufacturing process. The tax levied on paper and cardboard in plates, rolls and sheets, both imported and manufactured in Denmark, is 30 øre per kilogramme for paper (weighing up to 250 grammes per m² and 2 øre per kilogramme for cardboard (weighing more than 250 grammes per m²).

3. Liquor manufactured in Denmark is subject, inter alia, to a tax of 30 kroner per litre of 100 per cent strength, measured by Tralle's alcoholmeter.

The corresponding tax levied on imported liquor where the alcohol content is readily measurable is 15 kroner per litre of up to 50 per cent strength according to Tralle's alcoholmeter; for liquor imported in strengths exceeding 50 per cent the tax will be calculated after conversion of the volume to 50 per cent strength.

When the alcohol content of imported liquor cannot be determined accurately by means of Tralle's alcoholmeter, the tax is calculated as for liquor of 60 per cent strength. If the alcohol content is obviously greater, the strength is determined by distillation and the tax is levied on the resulting higher strength.

The tax levied on alcohol-containing extracts and essences is 30 kroner per litre.

NOTE BY THE UNITED KINGDOM DELEGATION

The Dyestuffs (Import Regulation) Acts, 1920 to 1934

Certain requirements of the Dyestuffs (Import Regulation) Act 1920, as amended by the Dyestuffs (Import Regulation) Act 1934, conflict with the provisions of the General Agreement which prohibit the imposition of quantitative import restrictions except for balance-of-payments reasons. The relevant sections of the Act* read as follows:

* The Dyestuffs (Import Regulation) Act, 1920 (10 and 11 Geo. 5c77) as amended by the Dyestuffs (Import Regulation) Act, 1934 (24 and 25 Geo. 5c6).

"1 - (1) with a view to the safeguarding of the dye-making industry, the importation into the United Kingdom of the following goods, that is to say,

- (a) synthetic organic dyestuffs (including pigment dyestuffs), whether soluble or insoluble;
- (b) compounds, preparations and articles manufactured from any such dyestuffs, except any such compounds, preparations and articles as are not suitable for use in dyeing; and
- (c) organic intermediate products used in the manufacture of any such dyestuffs,

shall be prohibited.

2 - (1) The Board of Trade have power by licence to authorize, either generally or in any particular case, the importation of any of the goods, or any class or description of the goods, prohibited to be imported by virtue of this Act."

The Act also contains provisions which conflict with Article XIII of the General Agreement on Tariffs and Trade relating to the non-discriminatory application of import restrictions, in so far as the Board of Trade are required to issue an import licence automatically wherever the Advisory Committee, set up under the Act to recommend the issue of licences, is satisfied that the goods in question were wholly produced in Her Majesty's dominions. The relevant passage in the Act is as follows:

"2 - (4) If on an application for a licence under this section the Committee are satisfied that the goods to which the application relates are goods wholly produced or manufactured in Her Majesty's dominions, a licence shall be granted in accordance with the application."

With the enactment of the Import, Export and Customs Powers (Defence) Act, 1939, Her Majesty's Government secured powers to control all imports and, for administrative reasons, the Dyestuffs Acts were suspended.* When the emergency powers conferred by the 1939 Act are terminated, however, the Dyestuffs Acts will automatically, in the absence of new legislative provisions, come back into operation.

The Dyestuffs Act did not lay down criteria to guide the Board of Trade in the issue of licences for foreign dyestuffs but the Advisory Committee, referred to above, adopted, until the suspension of the Act, the general policy of recommending the issue of licences only where:

- (a) no equivalent home produced material of comparable quality was available, or,
- (b) the price of the equivalent United Kingdom material was unreasonably high.

¹Under the Import of Goods (Prohibition) (No.1) Order 1939 and Import of Goods (Control) (Amendment) Order, 1954.

With the suspension of the Act, the Statutory Advisory Committee ceased to function, but Her Majesty's Government have adopted broadly the same criteria in regard to the issue of import licences, except that in the post-war period balance-of-payments considerations have also been taken into account.

Since import restriction has been the statutory method of protection for the United Kingdom industry, imports of synthetic organic dyestuffs for use as such and of certain named organic intermediate products are, with a very few exceptions, free of import duty and other intermediates are subject to duty at only 10 per cent general ad valorem.

ANNEX II

EXISTING MANDATORY LEGISLATION

Information Received from Governments
(L/309/Add.1)

In reply to the request of the CONTRACTING PARTIES that governments should submit information on their existing mandatory legislation, replies have been received from the delegations of Germany, South Africa and the Federation of Rhodesia and Nyasaland.

The Federation of Rhodesia and Nyasaland replied that there is no Federal mandatory legislation requiring action inconsistent with the provisions of Part II of the General Agreement.

The delegation of the Union of South Africa has replied that as far as the delegation is aware the only South African legislation concerned by the request of the CONTRACTING PARTIES is section 89(1) of the Customs Act. Under this legislation (vide document L/81/Add.2) the quantity qualification for the determination of Value for Customs Purposes (usual wholesale quantities) is not in keeping with either of the quantity qualifications in paragraph 2(b) of Article VII. The delegation has requested their Government to advise them of any other legislation which may come within the scope of the request of the CONTRACTING PARTIES.

NOTE BY THE GERMAN DELEGATION

Definitive Application of the General Agreement

The Problem of Existing Mandatory Legislation

In accordance with the decision of the CONTRACTING PARTIES regarding the problem of the definitive application of the General Agreement taken at the Twenty-seventh Plenary Meeting held on 22 December 1954, the German delegation hereunder states the internal mandatory laws still being applied in the Federal Republic of Germany pursuant to paragraph 1a(ii) of the Torquay Protocol of Application. This summary is based on paragraph 5 of GATT document L/299 dated 21 December 1954.

The laws stated hereunder have a mandatory character. The German delegation would like, however, to point out that it shares the opinion, maintained also by other delegations at the Twenty-seventh Plenary Meeting, that for the validity of the Protocol of Application only its wording is decisive, which refers to existing legislation, but not to mandatory legislation.

(a) Quantitative Import Restrictions Except for Balance-of-Payments Reasons

Law No. 53 of the Allied Military Government (Revision) Concerning Foreign Exchange Restrictions and Control of the Exchange of Commodities, dated 19 September 1949, and First Regulation under the Foreign Exchange Control Law.

Pursuant to Article I of that law it is, in principle, prohibited to import commodities into the Federal Area. Any import is subject to previous authorization,

(b) Discriminatory and Protective Application of Internal Taxes

- (1) Turnover tax and turnover equalization tax
Parts of the Turnover Tax Law dated 16 October 1934, and the regulations issued under that law.

The cases concerned are the following:

- (a) exemption from taxation for the delivery of essential raw materials and semi-finished products in the wholesale trade;
- (b) reduced tax rate for deliveries of objects not coming under Section 4, No. 4, of the Turnover Tax Law, in the wholesale trade;
- (c) reduced tax rate for deliveries of products in the field of agriculture and forestry if delivered by the producer himself;
- (d) exemption from the turnover equalization tax, of the results from fishery and hunting of fishermen of German nationality at sea, and of the products which they derive from them.

- (2) Tobacco tax
Tobacco Tax Law dated 4 April 1939:
reduced tax rates for tobacco products to which a determined part of domestic raw tobaccos has been admixed.

(c) State Trading and Monopolies

The Federal Republic of Germany has State trading and monopolies for:

- (1) cereals and vegetable fodder
- (2) sugar
- (3) butter, lard, margarine and imitation lard
- (4) slaughter cattle, meat and meat products
- (5) ethyl alcohol
- (6) inflammables.

As regards the goods mentioned under (1) through (4), every importer is obliged to offer goods to be imported, not later than at the moment of customs or frontier clearance,

to the Import and Stocking Office for Cereals and Vegetable Fodder or,
Import Office for Sugar or
Import and Stocking Office for Fats or
Import and Stocking Office for Slaughter Cattle, Meat and
Meat Products.

The Import and Stocking Offices are corporations under public law. They are exclusively entitled to take over and sell these goods in case they have been imported into the Federal Republic. If an Import and Stocking Office refuses to take over a commodity offered to it, such commodity is not allowed to be put on the market.

The right of supervision by the Federal Minister of Food, Agriculture and Forestry ensures, i.a., that the import of goods subject to agricultural market regulations takes place in accordance with the same general principles as apply to imports of the private trade.

As regards the products stated under paragraphs (1) through (6) the following legal provisions are in force:

1. Law Concerning the Trade with Cereals and Vegetable Fodder dated 4 November 1950 and the regulations issued under that law;
2. Law Concerning the Trade with sugar dated 5 January 1951, and the regulations issued under that law;
3. Law Concerning the Trade with Milk, Milk Products and Fats dated 28 February 1951 and the regulations issued under that law;
4. Law Concerning the Trade with Cattle and Meat dated 25 April 1951 and the regulations issued under that law;
5. Law Concerning the Spirits Monopoly dated 8 April 1922; this law involves:
 - (a) the import monopoly existing in the Federal Republic of Germany for spirits and products derived from spirits;
 - (b) the granting of a special export price or export reimbursement for the export of spirits and determined products derived from spirits;
6. Inflammables Monopoly Law dated 29 January 1930 inasmuch as it concerns the import monopoly for inflammables, existing in the Federal Republic of Germany.

ANNEX III

EXISTING MANDATORY LEGISLATION

Information Received from Governments
(L/309/Add.2)

The replies of the delegations of Australia, Ceylon, Denmark, Finland, Germany, Japan, Pakistan, Rhodesia and Nyasaland, Union of South Africa, and the United Kingdom have been circulated in documents L/309 and L/309/Add.1.

The replies of the Canadian, Indian and United States delegations follow.

NOTE BY THE CANADIAN DELEGATION

The only legislation passed by the Parliament of Canada which requires action inconsistent with provisions of Part II of the Agreement is contained in the Customs Tariff, Schedule C. This Schedule lists goods, the importation of which is prohibited. Most of these prohibitions are not inconsistent with Part II. There are four, however, which do not appear to fall under the list of exemptions in Articles XI, XX and XXI of the General Agreement. These prohibitions are:

1. Tariff Item 1204 which prohibits the import of oleomargarine, butterine and other similar substitutes for butter;
2. Tariff Item 1215 which prohibits the import of used or second-hand motor vehicles for resale;
3. Tariff Item 1216 which prohibits the import of used or second-hand aircraft for resale and;
4. Tariff Item 1218 which prohibits the import of second-hand periodical publications for resale.

NOTE BY THE INDIAN DELEGATION

In the twenty-seventh meeting of the CONTRACTING PARTIES held on 22 December 1954, after discussing the United Kingdom note on the problem of existing mandatory legislation (L/299), it was decided that delegations should try their best to provide information as to the extent to which they were prevented by internal mandatory legislation existing on the date of the Protocol of provisional application from complying with the provisions of the Agreement. In the course of the discussions many delegations, including the Indian delegation, had expressed the view that it would be very difficult to give a complete answer

on the points raised by 15 January 1955. The Indian delegation has, however, been in communication with the Government of India on the subject and what is set out below may be of some use in the proposed study of the problems relating to definitive application of the Agreement.

At the outset it is necessary to point out that in India the powers to legislate over matters affecting trade and commerce vest not only in the Indian Parliament but also in the Legislatures of the States (formerly Provinces of British India and Indian States). Within the time given, no attempt whatsoever could be made to examine the legislation of the various States and no idea can, therefore, be formed at this stage of the possible scope of the Government of India's obligations under paragraph 12 of Article XXIV.

Secondly, in most instances legislation in India is not framed in a mandatory form, though its effect, so far as the Government is concerned, may not be different. By giving powers to the Executive to act in a particular way in particular circumstances, Parliament, in fact, expects that such action would be taken and the permissive character of the legislation is often intended to be no more than an arrangement for flexibility in administration.

Within the time available, and in view of the special factors referred to above, the Indian delegation is able to draw attention at this stage only to the following measures which may have a bearing on the subject:

- (a) Section 18 of the Sea Customs Act, 1878 (copy attached);
- (b) The Indian Power Alcohol Act, 1948 (copy attached); and
- (c) The Imports and Exports Control Act, 1947.

Except for Section 18 of the Indian Sea Customs Act, the others have a permissive character and not a mandatory one. All the same, for the reasons explained above, the provisions of the Indian Power Alcohol Act are intended to be used so long as the particular situation which warranted its enactment continues. It will be noticed that its main object is to ensure that in certain States or areas, petrol is not sold except in admixture with power alcohol. The provisions of the Import and Export Control Act are in that sense less stringent because the Executive has the freedom to vary the incidence of restrictions on import and export according to the needs of the situation, though while this Act continues to be in force any damage to India's domestic economy or external finances will render the Executive liable to explain to Parliament why action in terms of the Act was not taken. These measures have been mentioned as illustrative of those which India would have liked to bring

to the attention of the CONTRACTING PARTIES, if it were possible to collect fuller data within the time available. It will need further examination to decide whether or not any of these measures is actually inconsistent with the provisions of the General Agreement.

THE SEA CUSTOMS ACT. 1878

(VIII of 1878)

(As modified up to 1 December 1950)

Prohibitions and Restrictions of Importation and Exportation

18. No goods specified in the following clauses shall be brought, whether by land or sea, into India:
- (b) counterfeit coin, or coin which purports to be Indian coin, or to be coin made under the Native Coinage Act, 1876, but which is not of the established standard in weight or fineness;
 - (c) any obscene book, pamphlet, paper, drawing, painting, representation, figure or article;
 - (d) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889;
 - (e) goods made or produced beyond the limits of India, and having applied thereto any name or trade mark being, or purporting to be, the name or trade mark of any person who is a manufacturer, dealer or trader in India unless
 - (i) the name or trade mark is, as to every applicant thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of India and
 - (ii) the country in which that place is situated is in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and in the English language;
 - (f) piece goods manufactured outside India, such as are ordinarily sold by length or by the piece, if each piece has not been conspicuously marked:

- (i) with the name of the manufacturer, exporter, or wholesale purchaser in India, of the goods, and
 - (ii) with the real length of the piece in standard yards, inscribed in the international form of numerals;
- (ff) goods made or produced beyond the limits of India and intended for sale, and having applied thereto, a design in which copyright exists under the Indian Patents and Designs Act, 1911, in respect of the class to which the goods belong or any fraudulent or obvious imitation of such design except when the application of such design has been made with the licence or written consent of the registered proprietor of the design;
- (g) matches made with white phosphorous;
- (h) goods which are required by a notification under Section 12A of the Indian Merchandise Marks Act, 1889, to have applied to them an indication of the country or place in which they were made or produced, unless such goods show such indication applied in the manner specified in the notification;
- (i) cotton yarn manufactured outside India, such as is ordinarily imported in bundles, if each bundle containing such yarn has not been conspicuously marked:
- (i) with the name of the manufacturer, exporter, or wholesale purchaser in India, of the goods, and
 - (ii) with an indication of the weight and the count of the yarn contained in it, in accordance with the rules made under Section 20 of the Indian Merchandise Marks Act, 1889;
- (j) cotton sewing, darning, crochet or handicraft thread manufactured outside India, if each of the units in which the thread is supplied has not been conspicuously marked:
- (i) with the name of the manufacturer, exporter, or wholesale purchaser in India, of the goods, and
 - (ii) with the length or weight of the thread contained in it and in such other manner as is required by the rules made under Section 20 of the Indian Merchandise Marks Act, 1889.

Act No. XXII of 1948

An Act to Provide for the Development of the
Power Alcohol Industry

WHEREAS it is expedient in the public interest that the Power Alcohol Industry should be developed under the control of the Central Government;

It is hereby enacted as follows:

1. SHORT TITLE, EXTENT AND DURATION

- (1) This Act may be called the Indian Power Alcohol Act, 1948.
- (2) It extends to all the Provinces of India.
- (3) This Act or such portion thereof shall come into force in such area, and in such date as the Central Government may, by notification in the Official Gazette specify in this behalf.

2. DECLARATION AS TO EXPEDIENCY OF CENTRAL GOVERNMENT'S CONTROL

It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the development of the Power Alcohol Industry.

3. DEFINITIONS

In this Act, unless there is anything repugnant in the subject or context;

- (a) "molasses" means the heavy, dark-coloured residual syrup drained away in the final stage of the manufacture of sugar by vacuum pans in sugar factories either from sugarcane or by refining gur, when such a syrup has fermentable sugars (expressed as reducing sugars), but does not include the final residual syrup left in the manufacture of sugar by the open pan process;
- (b) "petrol" means dangerous petroleum as defined in clause (b) of Section 2 of the Petroleum Act, 1934 (XXX of 1934);
- (c) "power alcohol" means ethyl alcohol containing not less than 99 per cent by volume of ethanol measured at sixty degrees Fahrenheit corresponding to 74.4 over proof strength.

4. PRODUCTION OF POWER ALCOHOL

- (1) No person shall manufacture power alcohol from any substance other than molasses or such other substance as may be specified by the Central Government.
- (2) If any dispute arises as to whether any substance is or is not molasses the decision of an officer authorized by the Central Government in this behalf regarding such dispute shall be final and shall not be called in question in any court.

5. POWER TO REGULATE PRODUCTION AND DISPOSAL OF POWER ALCOHOL

The Central Government may regulate the production and disposal of power alcohol by any distillery situated in any area in which this Section is for the time being in force.

6. POWER TO DIRECT USE OF POWER ALCOHOL AS MOTIVE POWER

- (1) The Central Government may, by notification in the Official Gazette, direct that in such area as may be specified therein no petrol shall be sold or kept for sale except with an admixture of power alcohol.
- (2) The proportion of petrol and power alcohol in such mixture shall in any area and for any purpose be such as may from time to time be specified by the Central Government but such proportion of power alcohol in the case of mixture with petrol meant for use as motive power for any motor vehicle shall not be more than 25 per cent or less than 5 per cent by volume.
- (3) The power alcohol to be employed for such mixture shall be obtained from such distilleries as may, from time to time, be specified by the Central Government.

7. PENALTY

Whoever contravenes any of the provisions of Sections 4 and 6 or any order of the Central Government issued thereunder shall be punishable with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both, and in the case of a continued contravention with a further fine which may extend to one hundred rupees for every day during which the contravention is continued after conviction therefore.

8. DELEGATION OF POWERS

The Central Government may, by notification, in the Official Gazette, direct that any power conferred by this Act shall, subject to such conditions, if any, as may be specified in the direction, be exercisable also by:

- (a) such officer or authority subordinate to the Central Government; or
- (b) such Provincial Government or such other officer or authority subordinate to a Provincial Government;

as may be specified in the direction

9. OFFENCES TO BE BAILABLE

All offences punishable under this Act or any rule made thereunder shall be bailable within the meaning of the Code of Criminal Procedure, 1898 (V of 1898).

10. POWER TO MAKE RULES

- (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing powers, such rules may:
 - (a) provide for the licensing of the manufacture of power alcohol;
 - (b) prescribe the specifications and tests in respect of the purity of power alcohol intended for admixture with petrol in order to ensure its suitability for use in motor vehicles;
 - (c) fix the price at which power alcohol may be sold for the purpose of admixture with petrol;
 - (d) provide for imposing and collecting a duty of excise on power alcohol intended for admixture with petrol;
 - (e) prescribe conditions in respect of the transport and storage of power alcohol intended for admixture with petrol and for the manner in which the admixture is to be affected;

- (f) prescribe the submission by a manufacturer of power alcohol or importer or distributor of petrol of returns regarding the power alcohol and petrol manufactured, purchased, stored or sold, as the case may be;
 - (g) provide for denaturing of power alcohol at the distilleries;
 - (h) provide for any other matter which is to be or may be prescribed under this Act.
- (3) Rules made under this Act may provide that any contravention of such rules shall render the offender liable on conviction to a fine not exceeding one thousand rupees.

11. POWER OF EXEMPTION

Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, declare that any of the provisions of this Act shall not apply to any case or class of cases.

NOTE BY THE UNITED STATES DELEGATION

(Summary of more important legislative provisions)

Article I

(a) There is a 2 cents per pound preference in the processing tax accorded coconut oil derived from Philippine coconuts (26 USC 2470)
[Note: It would be permissible under the note to Annex D to the General Agreement to convert this processing tax preference to a tariff preference.]

Article III

(a) Sections 4511 and 4513 of the Internal Revenue Code impose processing taxes on imported coconut, palm, and palm-kernel oil which are not imposed on the processing of competing domestic oil (26 USC 4511 and 4513). [Note: It would be permissible as above under the note to item 54 of Part I of Schedule XX of the General Agreement to convert these processing taxes to import duties.]

(b) Sections 4591, 4812, 4813, 4816, 4818, 4831, 4832, 7235(e) and 7265(b) and (e) of the Internal Revenue Code impose internal revenue taxes on imported oleomargarine, adulterated butter, and filled cheese which are not applied or are applied at lower rates to the like domestic product. (26 USC 4591, 4812, 4813, 4816, 4818, 4831, 4832, 7235(e) and 7265(b) and (e)).

(c) Sections 5001(a)(3), 5007(b)(2), 4001, 4011, 4021 and 4471 of the Internal Revenue Code imposed a discriminatory tax on imported perfumes containing distilled spirits. (26 USC 5001(a)(3), 5007(b)(2), 4001, 4011, 4021, and 4471).

(d) Copyright legislation requires the printing in United States of all copies of most books in the English language, in excess of 1,500 copies in order that copyright protection may be obtained. (17 USC 16 and 17). [Note: This provision has been repealed for works of nationals of, and works of other than United States nationals first published in, countries which with the United States became parties to the Universal Copyright Convention. (Public Law 743, 83rd Congress)].

Article VI

Section 303 of the Tariff Act of 1930 requires the assessment of countervailing duties to offset a subsidy or other grant without a showing of injury or threat of injury to domestic industry. (19 USC 1303).

Article VII

(a) The "American selling price" used is the basis of valuation of certain coal-tax products, some canned clams, woollen gloves and mittens, and rubber-soled footwear does not represent actual value but is based on the value of merchandise of national origin. (19 USC 1000, paragraphs 27 and 28, 1336(b), and 1402(g), T.D.47031, T.D.48183 and T.D.46158).

(b) "United States value" and "cost of production", which may be used as bases of valuation if neither foreign or export value can be determined do not comply in all respects with Article VII. The statutory definition of the former contains certain arbitrary restrictions on deductions, and there is an arbitrary requirement that certain mark-ups be added in the case of the latter. (19 USC 1402(e) and (f)).

(c) The existing United States law is out of line with the provision of paragraph 2(b) of Article VII regarding the quantities, the price of which shall be taken in determining "actual value", since it frequently requires that the value of a shipment of imported merchandise be determined with respect to the price at which a lesser quantity is sold in the country of exportation. (19 USC 1402(c) and (d)).

(d) The Tariff Act, in providing for the use of foreign wholesale value in some cases, does not provide for the exclusion from value for duty purposes of all taxes imposed on products consumed domestically but from which exported merchandise is exempted. (19 USC 1402(a) and (c)).

Article XI

(a) There is prohibition against the exportation of tobacco seed.
(7 USC 516 and 517).

(b) Section 22 of the Agricultural Adjustment Act (of 1933) as amended (7 USC 624) on 30 October 1947 required the President to impose such quantitative limitations, not less than 50 per cent of the total quantity entered during a representative period, as he found to be necessary in order that the entry of the article on which such restrictions were imposed would not render or tend to render ineffective or materially interfere with any programme undertaken by the Department of Agriculture under the Agricultural Marketing Agreement Act, as amended, the Soil Conservation and Domestic Allotment Act, as amended, or Section 32, Public Law 320, 74th Congress, as amended, or would reduce substantially the amount of any product processed in the United States from any agricultural commodity with respect to which any such programme or operation is being undertaken. This provision could require the imposition of quotas in some situations which would not come under the exceptions provided for in Article XI or Article XX, or (in the case of quotas coming under the exception in paragraph (2)(c)(1) of Article XI) could require that the quotas be smaller than provided for in Article XI. Note: Section 22 quotas which would be permissible under the Protocol of Provisional Application should not be confused with the action under that section not covered by that Protocol for which the United States has requested a waiver. ✓

(c) Copyright legislation prohibits the importation of more than 1,500 copies of most books in the English language for which United States copyright is obtained. (17 USC 16 and 17). Note: This provision has been repealed for works of nationals of, and works of other than United States nationals first published in, countries which with the United States became parties to the Universal Copyright Convention. (Public Law 743, 83rd Congress) ✓

ANNEX IV

ACCEPTANCE OF THE AGREEMENT PURSUANT TO ARTICLE XXVI

Report by the Executive Secretary
(IC/W/77)

At the meeting of the Intersessional Committee in April (IC/SR.38) the Chairman of the CONTRACTING PARTIES raised the question of the definitive acceptance of the General Agreement pursuant to Article XXVI. He suggested that a move toward definitive acceptance might be started if governments which had obtained authority to accept the Agreement were to deposit, without further delay, their instruments of acceptance with the Executive Secretary in accordance with paragraph 4 of Article XXVI. At the same time, the Chairman drew attention to the Resolution of 7 March 1955 whereunder instruments of acceptance will be valid even though accompanied by reservations concerning legislation inconsistent with Part II of the GATT; he suggested that governments which were not yet in a position to accept the Agreement under Article XXVI should nevertheless submit details of legislation on which they may wish to enter reservations at the time of acceptance. Only one contracting party - Haiti - has so far accepted the Agreement pursuant to Article XXVI.

Contracting parties which have indicated their intention to deposit in the near future an instrument of acceptance pursuant to Article XXVI:4

Finland
Ghana
Federation of Malaya

Indications received from other contracting parties

Austria	- the question is under consideration.
Belgium	- not possible to foresee acceptance before session
Ceylon	- acceptance unlikely at this time.
Denmark	- no statement of intention possible now.
Federal Republic of Germany	- does not intend to accept for the time being.
India	- under examination.
New Zealand	- does not intend to accept before session.
Norway	- will not accept before session; it cannot be given legislative action until sufficient number of other governments have ratified.
Kingdom of the Netherlands	- will accept after the United States of America.
Pakistan	- does not propose to indicate acceptance before session.
Federation of Rhodesia and Nyasaland	- no decision yet taken.
Sweden	- does not intend to accept before session.
United Kingdom	- will not accept before session.
United States of America	- will not have accepted before session.

Indications concerning reservations which may accompany eventual acceptance

Austria	- the question is under consideration.
Belgium	- the question is under study and a statement will be submitted later.
Ceylon	- have advised there does not appear to be any mandatory legislation inconsistent with GATT.
Denmark	- re Articles mentioned in document L/309.
Finland	- re internal quantitative restrictions and legislation.
Ghana	- statement will be submitted later.
Greece	- statement will be submitted later.
India	- the question is under consideration.
Norway	- re Laws Nos. 16 and 17 and existing legislation.
Pakistan	- states that there is no mandatory legislation inconsistent with GATT.
Sweden	- statement will be submitted later.
United Kingdom	- re dyestuffs mentioned in document L/309.
United States of America	- statement will be submitted later.

In response to a request by the CONTRACTING PARTIES at their ninth session a number of other governments submitted information concerning then-existing mandatory legislation. The information received was reproduced in documents L/309 and Add.1 and 2. These documents contain statements from:

Australia
Canada
Ceylon
Denmark
Finland
Federal Republic of Germany
India
Japan
Pakistan
Federation of
Rhodesia and Nyasaland
Union of South Africa
United Kingdom
United States of America.