

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Fifth Session

DOCUMENTS TO EMBODY THE RESULTS OF THE TORQUAY NEGOTIATIONS

Report of the Legal Working Party of the Tariff Negotiations Committee

(As approved by the Committee for transmission to the Contracting Parties)

The Working Party, which was established at the second meeting of the Tariff Negotiations Committee on 2 October, elected as its Chairman Mr. Herrera Arango of the Cuban Delegation. The Working Party considered the terms upon which governments participating in the tariff negotiations, which are not at present contracting parties, might accede to the General Agreement under Article XXXIII, and the means for giving effect to the results of the negotiations. The Working Party used, as a basic document of reference, GATT/TN.2/12/Rev.1 issued by the Secretariat on 16 October; the draft instruments contained therein were examined in the light of comments and proposals from the delegations of various governments - both contracting parties and acceding governments - participating in the Torquay Conference.

The Working Party submits herewith a draft Final Act, which would serve to authenticate the results of the tariff negotiations which began on September 28, 1950, with three annexes comprising (I) the Decisions agreeing to the accession of the acceding governments, (II) the Torquay Protocol to bring into force the results of the negotiations, and (III) the Declaration, to be signed by contracting parties on the continued application of the present schedules to the General Agreement. In presenting these drafts for the approval of the Committee, the Working Party wishes to draw attention particularly to the following.

1. THE FINAL ACT

The Final Act serves to authenticate the texts of the three annexed instruments. It also certifies that those items in the new schedules which provide for less favourable treatment than is provided for in the schedules negotiated at Geneva and Annecy are the result of appropriate action in terms of the Agreement and that all the procedures laid down by the Agreement have been complied with. In the case of the withdrawal or modification of concessions under Article XXVIII, it certifies that negotiations have been carried out with the contracting parties with which the concessions were initially negotiated and that other contracting parties which have a substantial interest have been consulted; and it certifies that other changes in the existing schedules are the result of negotiations carried out in accordance with procedures established by the Contracting Parties.

2. DECISIONS ON ACCESSION

The decisions on accession, to be opened for signature by the contracting parties at the close of the negotiations, have been detached from the Torquay Protocol and appear independently as Annex 1 to the Final Act. This seems the more logical treatment, since action is required first of all on the decisions.

The earlier draft of the decisions provided that they would remain open for signature at the headquarters of the United Nations for two months after the close of the Conference. In the draft now submitted, it is made clear that they will be open for signature at Torquay on the final day of the Conference; they will be deposited with the Secretary-General two weeks later and will remain open for signature at United Nations headquarters for about six weeks. Representatives of acceding governments expressed their desire to know the decisions of the Contracting Parties as to their accession at the earliest possible date, but they recognised that some contracting parties will not be able to take action until their delegations return home and submit full reports on the results of the negotiations.

The Working Party suggests that it might be helpful in obtaining favourable decisions on accession if the Contracting Parties would take a decision, similar to that of 13 August 1949, to the effect that any contracting party which fails to sign a decision on accession by the closing date for signature will be deemed to have cast a negative vote.

It will be noted that there are two draft decisions in Annex I. The first bears the name of Austria and is the prototype to be used for all the acceding Governments except Germany. The second is the decision for Germany which differs from the others by the insertion of sub-paragraphs (b), (c) and (d) in paragraph 1, to take account of the present circumstances of intra-German trade.

3. THE TORQUAY PROTOCOL

Preamble: The Delegation of Czechoslovakia places on record a protest against the provision for the accession of the Federal Republic of Germany and the Republic of Korea :

"The Czechoslovak Delegation protests against the admission of Germany and Southern Korea to the Torquay negotiations as, in its opinion, these countries have no legal capacity to become contracting parties. In consequence, the Czechoslovak Delegation objects to the inclusion of these countries in the Torquay Protocol, and states that their inclusion, in spite of its protest, and the signature of the Final Act of Torquay and of the Torquay Protocol by Czechoslovakia cannot be interpreted as an explicit or implicit recognition of these two countries by Czechoslovakia."

Para. 1: The Application of the Agreement by Acceding Governments

When acceding governments become contracting parties they will be required to apply the Agreement on a provisional basis as the present contracting parties are doing; i.e., Part II of the Agreement need be applied only to the fullest extent not inconsistent with legislation existing on the date of the Protocol. The schedules of tariff concessions negotiated by the acceding governments will become schedules to the Agreement.

Para. 2: Acceding Governments become contracting parties

When the Protocol enters into force for an acceding government, that government becomes a contracting party as defined in Article XXXII of the Agreement.

Para. 3: The Schedules of Contracting Parties

The Torquay Schedule of a present contracting party will enter into force thirty days after signature.

At the Fourth Session the Contracting Parties decided that it was highly desirable that all negotiations for the withdrawal or modification of concessions in existing schedules should be entered into and completed during the Torquay Conference, and it was then proposed that the results of such negotiations should be annexed to the Declaration to be opened for signature by the

contracting parties, renouncing their right to make any further invocation of paragraph 1 of Article XXVIII prior to January 1, 1954, in respect of concessions provided for in their existing schedules. Members of the Working Party now consider that it would be preferable to incorporate the results of the Article XXVIII negotiations in the Torquay schedules of the contracting parties, together with concessions and changes negotiated with other contracting parties and acceding governments in order to have all such changes in one set of schedules. This is accomplished by the provisions of paragraph 3 of the Torquay Protocol.

Under sub-paragraph (a) the whole of the annexed schedule relating to a contracting party which signs the Protocol will enter into force after a delay of thirty days. But under sub-paragraph (b), those portions of the schedule which are the result of negotiations and agreement pursuant to Article XXVIII:1 may be made effective, by agreement of the negotiating parties, at an earlier date by giving thirty days' notice to the Secretary-General of the United Nations; this procedure is subject to the condition that compensatory adjustments, negotiated in return for withdrawals or modifications may not be made effective later than those withdrawals and modifications. Similar provisions in sub-paragraph (c) permit the entry into force, in advance of signature of the Protocol, of portions of a schedule which result from negotiations pursuant to procedures established by the Contracting Parties except that in this case no notification is required.

Two phrases used in sub-paragraphs (b) and (c) require clarification. The words "made effective by agreement of the negotiating parties" relate to arrangements made at the time of the negotiation and not to any agreement reached subsequent to the Torquay Conference. The term "portions of a schedule" may relate to one item only or to several separate items which were grouped together for purposes of the negotiation.

The text of paragraph 3 has been drafted on two assumptions. First, it is assumed that the results of negotiations under Article XXVIII will not be brought into force by any contracting party before the close of the Torquay Conference. In the opinion of the Working Party, it would not be in keeping with the decision of the Contracting Parties at their Fourth Session if any of the results of these negotiations were brought into force prior to that date. And, secondly, it is assumed that each negotiation entered into at Torquay for the withdrawal or modification of concessions in an existing schedule will be brought to a successful conclusion before the close of the Conference. Paragraph 3 makes no provision for the possibility that agreement may not be reached in one or more of the negotiations entered into at Torquay. Accordingly, the Working Party suggests that at an appropriate date after December 22, which is the target date set for the conclusion of negotiations under Article XXVIII, the progress of these negotiations should be reviewed; if it then appears that agreement may not be reached in exceptional cases the draft should be referred back to the Working Party for appropriate amendment.

Para. 4: The Withholding and Withdrawal of Concessions

When bringing its Torquay schedule into force, a government may withhold concessions which were initially negotiated with a government which has not signed the Protocol. The Working Party understands that it would be an acceptable procedure for a government signing the Protocol to give notice that it was bringing into force only those concessions which were initially negotiated with those governments which had previously signed the Protocol and that the remaining concessions would be brought into force as and when the Protocol was signed by the governments with which they were initially negotiated.

Para. 5: Certain Dates Applicable in respect of Acceding Governments

It has been necessary to provide dates which will be applicable to acceding governments to replace the fixed dates appearing in the text of the Agreement.

Para. 6: Amendment of Article XXVIII

The proposals discussed at the Fourth Session of the Contracting Parties included provision for a protocol to modify Article XXVIII by prolonging for three years the assured life of the schedules to the Agreement, so that the present schedules would have the same assured life as the schedules of concessions to be added to the Agreement as a result of the Torquay negotiations. The draft protocol prepared at the Fourth Session was reproduced in GATT/TN.2/12. The Working Party gave careful consideration to the need for maintaining this protocol as a separate instrument and came to the conclusion that it might with advantage be incorporated in the Torquay Protocol, so that contracting parties by their signature of the latter would at the same time accept the amendment of Article XXVIII.

Hence, the separate protocol has been dropped and a new provision has been inserted in the Torquay Protocol amending the date in Article XXVIII. It is provided that signature of the Torquay Protocol will be deemed to constitute the deposit of an instrument of acceptance of this amendment within the meaning of Article XXX. This amendment will become effective when the Torquay Protocol has been signed by two-thirds of the contracting parties. The reciprocity clause, which was contained in the draft protocol, has been retained, so that the amendment will be effective only in respect of concessions initially negotiated with a contracting party which has also signed the Torquay Protocol or the Declaration on continued application of the schedules of the Agreement.

The Working Party believes that the incorporation of this amendment in the Torquay Protocol will expedite its acceptance by contracting parties. Nevertheless, it should be noted that this view is not shared by the Delegations of Czechoslovakia and Italy (see GATT/TN.2/29 & GATT/TN.2/B/5) and that several contracting parties have entered reservations with respect to the amendment of Article XXVIII and the rebinding of their existing schedules. It will be recalled that the delegations of Benelux and of Denmark stated at the Fourth Session that the decision of their governments would depend to a large extent on a considerable reduction of the disequilibrium in general levels of tariffs (GATT/CP.4/25, para. 5). The Delegation of Sweden expressed similar views. The provisions for the amendment of Article XXVIII have been drafted on the assumption that the results of the Torquay negotiations will be satisfactory and that these reservations will then be withdrawn. The Working Party need only mention that if the Committee should decide, as a result of its examination of these reservations, that it would be preferable to have a separate protocol for the amendment of Article XXVIII, paragraph 6 can be deleted and the draft protocol to amend Article XXVIII which was drawn up at the Fourth Session can be prepared for signature.

Further, the Australian delegation have advised that their government reserves the right to negotiate the modification or withdrawal of 32 specified items in the Australian Schedule (GATT/TN.2/L/10), and will not be able to sign the Protocol except with a formal reservation and have submitted a formal reservation (GATT/TN.2/B/4) which, it hopes, will be accepted in advance by the participating governments. Also, the delegation of Pakistan have reported (GATT/TN.2/L/9) and GATT/TN.2/B/6) that their government wish to reserve their right to withdraw or modify concessions in the Pakistan Schedule on a few specified items referred to the Pakistan tariff commission for investigation. The Working Party considers that it is not authorized by its terms of reference to examine the substance of these reservations and they will require the attention of the Tariff Negotiations Committee.

Para. 7: Establishment of a Common Text and Enforcement of Rectifications

The provisions of the Agreement to be applied by an acceding government are those of the original text as rectified and amended at the time of becoming a contracting party. In view of the fact that several protocols have been drawn up by the Contracting Parties but have not entered into force, sub-paragraph (b) provides that signature by an acceding government will constitute an acceptance of amendments etc. which had not entered into force prior to that government becoming a contracting party.

Moreover, in view of the difficulty encountered in bringing the various protocols rectifying the schedules to the Agreement into force, and in view of the desire, expressed by the Contracting Parties at the Fourth Session, that a common text for the Agreement applicable to all contracting parties should be established, it is proposed, in sub-paragraph (c), that signature by a contracting party or Uruguay will constitute an acceptance of all protocols not previously signed or accepted.

In putting forward this latter proposal, the Working Party has taken into account the reasons for the failure of certain contracting parties to accept all of the outstanding protocols. Only five of the contracting parties are affected, and it is understood that their failure to accept has been due to procedural difficulties rather than to any substantive objections. However, should any of those governments have difficulty in accepting any of these or later protocols, it can have recourse to the provision of the sub-paragraph which allows it to specify at the time of signature any such protocol which it cannot accept.

The following is a list of the protocols not yet in force or not accepted by all contracting parties and of the contracting parties which have not signed or accepted them:

Special Protocol relating to Article XXIV	Brazil and Burma
Protocol Modifying Part I and Article XXIX	Chile
Protocol Modifying Article XXVI	Burma and Chile
Protocol Replacing Schedule I (Australia)	Burma
Protocol Replacing Schedule VI (Ceylon)	Burma and Chile
First Protocol of Modifications	Burma and Chile
Third Protocol of Rectifications	Burma
Fourth Protocol of Rectifications	Brazil Lebanon Burma Syria Chile

Para. 8: Withdrawal from the Agreement

A government can withdraw from the Agreement by giving 60 days' notice.

Para. 9: Definitive Application under Article XXVI

Provision is made for accession to the Agreement by the new acceding governments under Article XXVI.

Para. 10: Signature of the Protocol

The Protocol will be open for signature for six months from the close of the Conference.

Para. 11: Entry into Force

The Protocol will enter into force for an acceding government thirty days after signature, though not earlier than three months after the close of the Conference.

Annexes: The Torquay Schedules

Annex A will be made up of the schedules of tariff concessions negotiated by the present contracting parties and Uruguay. These will include the new

concessions negotiated with other contracting parties and with the acceding governments, and also the changes in the existing schedules negotiated under Article XXVIII. Concerning the latter, an item on which the rate or description is to be changed should be listed in the Torquay Schedule as modified by the Torquay negotiations in the same form as in the Geneva or Ancey Schedule; and new products, whether constituting new or compensatory concessions, should be listed in the same way as in the Ancey and Geneva Schedules. As for the withdrawal of concessions resulting from the Article XXVIII negotiations the Working Party considered, in the light of differences in tariff nomenclature and the provisions of Article II:1(b) of the Agreement, the implications of using only one method for indicating the items withdrawn; it was found that the means of identifying the items to be withdrawn raises certain technical problems which will probably require the consideration of the Tariff Negotiations Working Party. The Cuban Schedule will include, in addition, the results of the renegotiations with the United States which were approved by the Contracting Parties on November 3, 1950. The tariff items in each schedule will be listed in numerical order.

Annex B will be made up of the schedules of tariff concessions negotiated by the acceding governments with the contracting parties and Uruguay and among themselves.

The attention of delegations is directed to the importance of careful treatment of notes appearing in the schedules. Various of the present schedules contain explanatory notes of various kinds, some applicable to the entire schedule of a contracting party, and others to part of such a schedule. Since, under paragraphs 3(b), 3(c) and 4 of the Torquay Protocol, parts of a schedule may be put into effect in advance of, or later than, the bulk of the schedule, it is of the greatest importance to indicate clearly, in the preparation of schedules, the exact applicability of explanatory notes.

General: Application of the Agreement to Dependent Territories

The Ancey Protocol of Terms of Accession included a provision that an acceding government accepted the Agreement in respect of all territories for which it held international responsibility, except such separate customs territories as it might specify by notice to the Secretary-General of the United Nations at the time of signature. This provision has been omitted from the Torquay Protocol, since none of the Torquay acceding governments has separate customs territories which it could exclude from the application of the Agreement.

The Ancey Protocol also provided that a contracting party could exclude a separate customs territory from the application of the Protocol. The inclusion of a similar provision in the Torquay Protocol has seemed unnecessary in view of the fact that the Protocol modifying Article XXVI has entered into force since the close of the Ancey Conference.

A difficulty arises, however, in respect of Indo-China. The position of Indo-China in relation to the General Agreement is on the Agenda of the Contracting Parties and may be clarified before the close of the Fifth Session. The French Delegation has informed the Contracting Parties that the French Government will no longer be in a position to assume responsibility for the application of the General Agreement by the Associated States of Indo-China, and it may be necessary to take this into account in the Torquay Protocol.

4. THE DECLARATION ON THE CONTINUED APPLICATION OF THE PRESENT SCHEDULES

The Declaration appears as Annex III to the Final Act. This will be open for signature by contracting parties at Torquay at the close of the Conference.

Two delegations have informed the Working Party that, because of constitutional difficulties, their governments will not be in a position to sign the Declaration at the close of the Torquay Conference; they would, however, be prepared to give an undertaking not to invoke the provisions of Article XVIII:1 subject to the examination of the position by their legislatures. This undertaking could be given by means of a statement to the effect that they intend to observe on a reciprocal basis the provisions of the Declaration to the fullest extent of their executive authority pending action by their legislatures. This would not legally entitle the government giving the undertaking to the benefits of the reciprocity clause which is contained in the Declaration; nevertheless, it is expected that contracting parties will, in the event, refrain from withdrawing any concession initially negotiated with a government which has given such an undertaking during the validity of the undertaking. These undertakings should be submitted in writing at the time the Declaration is opened for signature and should remain valid until the amendment of Article XXVIII enters into force, unless unfavourable action has been taken by the legislatures.

5. ACCESSION OF URUGUAY

The Working Party has acted upon the instruction of the Tariff Negotiations Committee to make adjustments in the Torquay instruments to take account of the fact that Uruguay is expected to accede to the Agreement under the Annex Protocol of Terms of Accession. In this connection, it is necessary to draw special attention only to the provision of paragraph 10 of the Torquay Protocol which requires that Uruguay shall sign the Annex Protocol before signing the Torquay Protocol. The Declaration will be open for signature by Uruguay in the event that Uruguay becomes a contracting party by the close of the Torquay Conference, and the decisions on accession if she becomes a contracting party within two months of the close of the Conference. Uruguay will become a contracting party thirty days after signature of the Annex Protocol of Terms of Accession, and will thereafter rank with the present contracting parties vis-à-vis the acceding governments.

6. TIME-TABLE

To assist the representatives of participating governments to obtain a clear picture of the procedures to be followed after the close of the Torquay Conference, the following time-table is provided; this has been drawn up on the assumption that the Conference will terminate at the end of February.

- March 1
- : The Final Act will be signed at Torquay by all participating governments.
 - : Decisions on the accession of the acceding governments (one decision for each acceding government) will be opened at Torquay for signature by the contracting parties.
 - : The Torquay Protocol will be opened at Torquay for signature by the participating governments.

- March 1
(continued) : The Declaration on the Continued Application of the Present Schedules will be open at Torquay for signature by contracting parties.
- March 15 : The Decisions and the Torquay Protocol will be deposited at the Headquarters of the United Nations and will be open there for further signatures.
- April 30 : This will be the last day for signature of the Decisions. Decisions which have been signed by two-thirds of the present contracting parties will constitute decisions under Article XXXIII and will bear the date of May 1, 1951.
- March 1 to
August 31 : A contracting party signing the Torquay Protocol will bring into force, after a delay of 30 days, its Torquay schedule in respect of all present contracting parties and in respect of acceding governments and Uruguay as and when they become contracting parties.
- June 1 : The Torquay Protocol will enter into force for an acceding government which has signed it by May 2nd, providing the Decision respecting that government has been signed by two-thirds of the contracting parties. The new contracting party will apply the Agreement in respect of all governments which are at that time contracting parties, and to other governments as and when they become contracting parties.
- : A contracting party, whether or not it has signed the Torquay Protocol, will apply the Agreement, including its present schedules, to any government which becomes a contracting party.
- June to
August : The Torquay Protocol will enter into force for acceding governments and they will become contracting parties thirty days after they have signed, provided the Decisions respecting these governments have been signed by two-thirds of the present contracting parties.
- August 31 : This will be the last day for signature of the Torquay Protocol by any participating government.
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Draft Final Act of Torquay

FINAL ACT AUTHENTICATING THE RESULTS OF TARIFF NEGOTIATIONS CONCLUDED AT TORQUAY, BEGINNING SEPTEMBER 28, 1950, AND ENDING [February 28, 1951]

The CONTRACTING PARTIES to the General Agreement on Tariffs and Trade by an intersessional decision of October 30, 1949 decided to arrange for tariff negotiations to begin in September 1950.

The negotiations, which opened at Torquay, on September 28, 1950 and concluded on [February 28, 1951], were of four categories:

(a) Negotiations directed towards the accession of countries which had not become contracting parties as a result of the 1947 and 1949 negotiations.

(b) Negotiations between governments which participated in the Geneva and Annecy conferences without concluding bilateral negotiations and wished to enter into tariff negotiations during 1950.

(c) Negotiations between governments which concluded tariff negotiations at Geneva or Annecy and desired to enter into negotiations for new or additional reciprocal tariff concessions.

(d) Negotiations between governments with a view to the making of adjustments in their concessions negotiated at Geneva or Annecy.

As a result of these negotiations, and other negotiations entered into pursuant to procedures established by the CONTRACTING PARTIES, the following instruments were prepared:

- (a) Decisions agreeing to the accession of the acceding governments (Annex I);
- (b) Torquay Protocol to the General Agreement on Tariffs and Trade (Annex II);
- (c) Declaration on the continued application of the schedules to the General Agreement on Tariffs and Trade (Annex III).

The texts of these instruments in the English and French languages are annexed hereto, and are hereby authenticated, and it is hereby certified that, in each case where a schedule in Annex A to the annexed Torquay Protocol provides treatment for any product less favourable than is provided for the same product in the existing schedule to the General Agreement, appropriate action has been taken to enable effect to be given to such a change.

IN WITNESS WHEREOF, the duly authorized representatives of the governments participating in the negotiations have subscribed their names below.

Done at Torquay, in a single copy, in the English and French languages, both texts authentic, this first day of March, one thousand nine hundred and fifty-one.

Note: There will follow place for the signature of the contracting parties, acceding governments and Uruguay.

ANNEX IDECISIONS AGREEING TO ACCESSIONDecision by the CONTRACTING PARTIES Agreeing to the Accession of Austria to the General Agreement on Tariffs and Trade

The CONTRACTING PARTIES,

HAVING REGARD to the results of the negotiations directed toward the accession of Austria to the General Agreement on Tariffs and Trade,

DECIDE in accordance with Article XXXIII of the General Agreement,

1. The CONTRACTING PARTIES agree to the accession of the Government of Austria to the General Agreement on the terms relevant to such accession which are provided for in the Torquay Protocol to the General Agreement.
2. This Decision shall be open for signature by contracting parties at Torquay on March 1, 1951 and after March 15, 1951 at the Headquarters of the United Nations until April 30, 1951.
3. This Decision shall constitute a decision of the CONTRACTING PARTIES taken on May 1, 1951, provided that it shall then have been signed by two-thirds of the governments which are at that time contracting parties.
4. The Secretary-General of the United Nations shall promptly furnish a notification of each signature to this Decision to each Member of the United Nations, to each other government which participated in the United Nations Conference on Trade and Employment, and to any other interested government.

Note: Annex 1 will contain a separate identical decision, mutatis mutandis, for each other acceding government except Germany. Paragraph 1 of the decision for Germany follows. Each decision will contain place for signature by the contracting parties.

Paragraph 1 of the Decision for the Accession of the Federal Republic of Germany:

- "1. (a) The CONTRACTING PARTIES agree to the accession of the Government of the Federal Republic of Germany to the General Agreement on the terms relevant to such accession which are provided for in the Torquay Protocol to the General Agreement.
- " (b) The CONTRACTING PARTIES further agree that, notwithstanding the provisions of Article I of the General Agreement, the accession of the Government of the Federal Republic of Germany will not require any modification in the present arrangements for, or status of, intra-German trade in goods originating within Germany.
- " (c) In according the benefits of the General Agreement to goods exported from the Federal Republic of Germany, the contracting parties will make no distinction between goods originating in the territory of the Federal Republic and those originating in the Western sectors of Berlin.
- " (d) The provisions of subparagraph 1(b) and (c) above may be reconsidered at any time at the request of any Contracting party, and any decision taken by the CONTRACTING PARTIES in this respect will be taken by a majority of the votes cast."

ANNEX IITORQUAY PROTOCOL
TO
THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The Governments of the Commonwealth of Australia, the Kingdom of Belgium, the United States of Brazil, Burma, Canada, Ceylon, the Republic of Chile, the Republic of Cuba, the Czechoslovak Republic, the Kingdom of Denmark, the Dominican Republic, the Republic of Finland, the French Republic, the Kingdom of Greece, the Republic of Haiti, India, the Republic of Indonesia, the Italian Republic, Lebanon, the Republic of Liberia, the Grand-Duchy of Luxembourg, the Kingdom of the Netherlands, New Zealand, the Republic of Nicaragua, the Kingdom of Norway, Pakistan, Southern Rhodesia, the Kingdom of Sweden, Syria, the Union of South Africa, the United Kingdom of Great Britain and Northern Ireland and the United States of America, which are the present contracting parties to the General Agreement on Tariffs and Trade, (hereinafter called "the present contracting parties" and "the General Agreement" respectively), the Governments of the Republic of Austria, the Federal Republic of Germany, the Republic of Korea, Peru, the Philippine Republic and the Republic of Turkey, (hereinafter called "the acceding governments"), and the Oriental Republic of Uruguay, which may accede to the General Agreement under the Annex Protocol of Terms of Accession in accordance with the Decision of the CONTRACTING PARTIES of November 9, 1950 (hereinafter called "Uruguay"),

HAVING REGARD to the results of the negotiations concluded at Torquay :-

HAVE through their representatives agreed as follows :

1. (a) Each of the acceding governments, with respect to the accession of which a decision under Article XXXVIII of the General Agreement has been taken shall, upon the entry into force of this Protocol with respect to it pursuant to paragraph 11, apply provisionally and subject to the provisions of this Protocol :

- (i) Parts I and III of the General Agreement, and
- (ii) Part II of the General Agreement to the fullest extent not inconsistent with its legislation existing on the date of this Protocol.

(b) The obligations incorporated in paragraph 1 of Article I of the General Agreement by reference to Article III thereof and those incorporated in paragraph 2(b) of Article II by reference to Article VI shall be considered as falling within Part II of the General Agreement for the purpose of this paragraph.

(c) For the purposes of the General Agreement, the schedules contained in Annex B upon their entry into force pursuant to paragraph 11 shall be regarded as schedules to the General Agreement relating to acceding governments.

2. Upon the entry into force of this Protocol with respect to each acceding government, pursuant to paragraph 11 hereof, that government shall become a contracting party as defined in Article XXXII of the General Agreement.

3. (a) On the thirtieth day following the day upon which this Protocol shall have been signed by a present contracting party or Uruguay, the schedule relating to that contracting party or Uruguay contained in Annex A shall enter into force.

(b) Portions of the schedule contained in Annex A which are the result of negotiations and agreement pursuant to paragraph 1 of Article XXVIII of the General Agreement may be made effective, by agreement of the negotiating parties, after the date of this Protocol and prior to the date determined pursuant to subparagraph (a) Provided that

- (i) compensatory adjustments negotiated in return for withdrawals of or reductions in concessions contained in the existing schedules to the General Agreement may not be made effective later than such withdrawals or reductions, and
- (ii) any government proposing to make a portion of its schedule effective pursuant to this subparagraph shall give the Secretary-General of the United Nations at least thirty days' notice of the date on which the proposed action will become effective.

(c) Portions of the schedules contained in Annex A which are the result of negotiations and agreement pursuant to procedures established by the Contracting Parties may be made effective, by agreement of the negotiating parties, prior to the date determined pursuant to sub-paragraph (a), Provided that compensatory adjustments negotiated in return for withdrawals of or reductions in concessions contained in the existing schedules to the General Agreement may not be made effective later than such withdrawals or reductions.

(d) When a schedule has entered into force pursuant to sub-paragraph (a) or when any portion of a schedule has been made effective pursuant to sub-paragraph (b) or (c), such schedule, or portion (together with all provisions of the schedule in Annex A relevant thereto), shall become a schedule to the General Agreement relating to the government in question. In the case of any difference between the treatment provided for a product in a schedule contained in Annex A, and the treatment provided for the same product in an existing schedule to the General Agreement relating to the same government, the treatment provided in the schedule contained in Annex A shall prevail when and so long as effect is given thereto pursuant to the provisions of this Protocol.

(e) For the purposes of this Protocol, the "existing schedules to the General Agreement" shall mean the schedules annexed to the General Agreement and to the Accession Protocol of Terms of Accession, as modified by: (i) the provisions of any protocol relating to their rectification or modification, or (ii) any other action, which was effective on September 28, 1950, taken pursuant to a specific provision

of the General Agreement or to procedures established by the CONTRACTING PARTIES.

4. Any government which has signed this Protocol shall be free at any time to withhold or to withdraw in whole or in part any concession, provided for in the appropriate schedule annexed to this Protocol, in respect of which such government determines that it was initially negotiated with a government which has not signed this Protocol, Provided that

(i) the government withholding or withdrawing in whole or in part any such concession shall give notice to all other governments named in the preamble to this Protocol within thirty days after the date of such withholding or withdrawal and, upon request, shall consult with any contracting party having a substantial interest in a product involved;

(ii) any such withholding or withdrawal shall cease to be effective on the thirtieth day following the day upon which the government with which it was initially negotiated signs this Protocol; and

(iii) this paragraph shall not authorize the withdrawal or withholding of any compensatory adjustments resulting from any negotiations and agreement described in subparagraphs (b) and (c) of paragraph 3, unless all withdrawals of or reductions in concessions contained in the existing schedules to the General Agreement, in return for which such compensatory adjustments were negotiated, are withheld or withdrawn for the same period of time.

5. (a) In each case in which Article II of the General Agreement refers to the date of that Agreement, the applicable date in respect of the schedules annexed to this Protocol shall be the date of this Protocol.

(b) In each case in which paragraph 6 of Article V, subparagraph 4(d) of Article VII, and subparagraph 3(c) of Article X of the General Agreement refer to the date of that Agreement, the applicable date in respect of each acceding government shall be March 24, 1948.

(c) In the case of the references in paragraph 11 of Article XVIII of the General Agreement to September 1, 1947 and October 10, 1947, the applicable dates in respect to each acceding government shall be November 1, 1950 and January 15, 1951, respectively.

(d) In the case of the reference in paragraph 1 of Article XXVIII of the General Agreement to January 1, 1951, the applicable date in respect of the schedules annexed to this Protocol shall be January 1, 1954.

(e) The text of paragraph 1 of Article XXVIII of the General Agreement shall be amended by the deletion of "On or after January 1, 1951" and the substitution therefor of "On or after January 1, 1954".

(f) Signature of this Protocol in accordance with paragraph 10 shall be deemed to constitute the deposit of an instrument of acceptance of the amendment set forth in subparagraph (a), within the meaning of Article XXI, paragraph 2, of the General Agreement.

(g) The amendment set forth in subparagraph (a) shall become effective, in accordance with Article XXX, paragraph 1, of the General Agreement, upon signature of this Protocol by two-thirds of the governments which were at that time contracting parties.

(h) Notwithstanding the provisions of subparagraph (g), the amendment set forth in subparagraph (a) shall not become effective in respect of concessions initially negotiated by a contracting party which has signed this Protocol with a contracting party which has not signed either this Protocol or the Declaration on the Continued Application of the Schedules of the General Agreement annexed to the Final Act signed at Torquay on March 1, 1951.

7. (a) The provisions of the General Agreement to be applied by an acceding government shall be those contained in the text annexed to the Final Act of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment as rectified, amended, supplemented, or otherwise modified by such of the following instruments:

Protocol Modifying Certain Provisions, signed at Havana on March 24, 1948

Special Protocol Relating to Article XXIV " " " " " " " "

Special Protocol Modifying Article XIV " " " " " " " "

Protocol of Rectifications signed at Havana on March 24, 1948

Protocol Modifying Part I and Article XXIX, signed at Geneva on
September 14, 1948

Protocol Modifying Part II and Article XXVI, signed at Geneva on
September 14, 1948.

Second Protocol of Rectifications, signed at Geneva on September 14, 1948

Declaration of May 9, 1949, relating to Section E of Schedule XIX

Declaration of August 11, 1949, relating to Section B of Schedule XIX

Protocol Modifying Article XXVI, signed at Annecy on August 13, 1949

Protocol Replacing Schedule I (Australia) signed at Annecy on
August 13, 1949

Protocol Replacing Schedule VI (Ceylon) signed at Annecy on August 13,
1949

First Protocol of Modifications, signed " " " " " "

Third Protocol of Rectifications, " " " " " "

Annecy Protocol of Terms of Accession signed " " " October 10,
1949

Fourth Protocol of Rectifications, signed at Geneva on April 3, 1950

and by such other instruments drawn up by the CONTRACTING PARTIES, as may have become effective by the day on which this Protocol enters into force for that government.

(b) Signature of this Protocol by an acceding government shall constitute an acceptance of the the rectifications, amendments, supplementations or other modifications of the General Agreement by such of the instruments named

in subparagraph (a), and by such other instruments drawn up by the CONTRACTING PARTIES and open for acceptance, as may not have become effective by the date on which this Protocol enters into force for that government, such acceptance to take effect upon the same day as the signature of this Protocol by that government.

(c) Without prejudice to any action taken by a contracting party under Article XXXV, signature of this Protocol by a contracting party or Uruguay shall constitute, except as it may specify otherwise at the time of signature, an acceptance of the rectifications, amendments, supplementations or other modifications of the General Agreement by such of the instruments named in subparagraph (a) and by such other instruments drawn up by the CONTRACTING PARTIES and open for acceptance, as had not been signed or accepted by that contracting party or Uruguay, such acceptance to take effect on the day of signature.

8. Any acceding government which has signed this Protocol shall be free to withdraw its provisional application of the General Agreement and such withdrawal shall take effect on the sixtieth day following the day on which written notice of such withdrawal is received by the Secretary-General of the United Nations.

9. (a) Any acceding government which has signed this Protocol and has not given notice of withdrawal under paragraph 8, may, on or after the date on which the General Agreement enters into force pursuant to Article XXVI thereof, accede to that Agreement upon the applicable terms of this Protocol by deposit of an instrument of accession with the Secretary-General of the United Nations. Such accession shall take effect on the day on which the General Agreement enters into force pursuant to Article XXVI, or on the thirtieth day following the day of the deposit of the instrument of accession, whichever shall be the later.

(b) Accession to the General Agreement pursuant to subparagraph (a) shall, for the purpose of paragraph 2 of Article XXXII of that Agreement, be regarded as acceptance of the Agreement pursuant to paragraph 5 of Article XXVI thereof.

10. (a) The original text of this Protocol shall be deposited with the Secretary-General of the United Nations and shall be open for signature at the Headquarters of the United Nations by present contracting parties and acceding governments and by Uruguay, provided Uruguay has acceded to the General Agreement

under the Annex Protocol of Terms of Accession in accordance with the decision of the CONTRACTING PARTIES of November 9, 1950, until [August 31, 1951].

(b) The Secretary-General of the United Nations shall promptly furnish a certified copy of this Protocol, and a notification of each signature to this Protocol, of each deposit of an instrument of accession under paragraph 9(a), and of each notice under paragraph 3(b) or 8, to each Member of the United Nations, to each government which participated in the United Nations Conference on Trade and Employment, and to any other interested government.

(c) The Secretary-General is authorized to register this Protocol in accordance with Article 102 of the Charter of the United Nations.

11. Provided a decision under Article XXXIII of the General Agreement has been taken agreeing to the accession of an acceding government, this Protocol, including the schedule relating to that acceding government contained in Annex B, shall enter into force for that acceding government.

(a) on [June 1, 1951], if this Protocol has been signed by that acceding government by [May 2, 1951], or

(b) on the thirtieth day following the day upon which it shall have been signed by that acceding government, if it has not been signed by that acceding government, by [May 2, 1951].

12. The date of this Protocol shall be [March 1, 1951].

DONE at Torquay, in a single copy, in the English and French languages, both texts authentic except as otherwise specified with respect to schedules annexed hereto.

NOTE: There will follow a signature page for the contracting parties, Uruguay and acceding governments.

ANNEX A

SCHEDULES OF PRESENT CONTRACTING PARTIES AND URUGUAY

ANNEX B

SCHEDULES OF ACCEDING GOVERNMENTS

ANNEX III

DECLARATION ON THE CONTINUED APPLICATION OF THE SCHEDULES
TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The Contracting Parties to the General Agreement on Tariffs and Trade (hereinafter referred to as "the General Agreement"),

DESIRING to continue the application of the schedules to the General Agreement until January 1, 1954,

HAVING taken note of the modifications made

in accordance with the provisions of Article XXVIII of the General Agreement in certain items of the said schedules, which modifications are incorporated in Annex A to the Torquay Protocol to the General Agreement, dated today,

HEREBY DECLARE that they will not invoke prior to January 1, 1954 the provisions of paragraph 1 of Article XXVIII of the General Agreement to modify or cease to apply the treatment which they have agreed to accord under Article II of the General Agreement to any product described in the appropriate schedule annexed to the General Agreement.

The provisions of the preceding paragraph shall not apply to concessions initially negotiated with a government with respect to which neither this Declaration nor the Torquay Protocol to the General Agreement is in effect.

The original of this Declaration shall be deposited with the Secretary-General of the United Nations who is authorized to register this Declaration in accordance with Article 102 of the Charter of the United Nations.

The Secretary-General of the United Nations shall promptly furnish a certified copy of this Declaration to each Member of the United Nations, to each other government which participated in the United Nations Conference on Trade and Employment, and to any other interested government.

IN WITNESS whereof the respective representatives, duly authorised, have signed the present Declaration.

DONE at Torquay, in a single copy, in the English and French languages, both texts authentic, this [first] day of [March], one thousand nine hundred and fifty-one.

Note: There will follow place for the signatures of the contracting parties.

