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Prospects of lowering tariff barriers between the Members of the Council of Europe and, in particular, of establishing a "Low Tariff Club"

Report¹

Committee on Economic Affairs and Development

Rapporteur: Mr Roger MOTZ, Belgium

1. 1951 - 3rd Session - Second part



A. Draft Recommendation

The Assembly,

Considering that Member States should make one of their main objectives the removal of barriers to mutual trade, but that any action limited merely to the abolition of quantitative restrictions is insufficient, the more so if it affects only private to the exclusion of Government trading,

Noting the particular importance of a common policy by Member States to lower tariff walls within Europe,

Noting that the first aim of such a policy should be to fix a maximum rate of duties and subsequently to reduce by stages customs duties on the greater part of intra-European trade,

1. Proposes that such a policy should be based on the following three Principles :
 - a. The High Contracting Parties shall undertake by Convention not to retain as between each other any customs duties exceeding 35 % beyond a date to be fixed in the Convention and in any case not later than the date of completion of the successive stages of this plan. In order to facilitate the application of this Principle by the High Contracting Parties, States which have high customs duties of a fiscal nature shall be permitted within the above-mentioned period to convert such duties into taxes imposed equally on imported and internally produced commodities.
 - b. The High Contracting Parties shall undertake not to retain or impose on goods originating from other High Contracting Parties any import duties exceeding 5 % in respect of raw materials, 15 % in respect of semi-finished goods and 25 % in respect of finished goods and food products. The provisions of the second paragraph of the First Principle concerning the possible conversion of certain customs duties into taxes applying equally to foreign and to home-produced goods shall apply also to the provisions of the foregoing paragraph. During the first year the undertaking laid down in the first paragraph of this Principle shall apply only to 70 % of the total import trade of each country in any of the categories specified above. During the second year it shall be extended to 80 % and during the third year to 90 %. The High Contracting Parties shall undertake before the end of the third year to determine the procedure and lay down the conditions in which the above ceilings in respect of import duties may be extended to their minimum tariff schedules. The High Contracting Parties shall undertake to open negotiations for the purpose of fixing tariff ceilings for individual goods of particular importance in intra-European trade.
 - c. The Convention shall be open to all countries and independent customs areas willing to accept the obligations therein laid down. Realising, however, that the adoption of these three Principles would represent only a step towards the achievement of a European Customs Union.
2. Recommends the insertion, either in the Convention to be signed by the High Contracting Parties, or in the Final Act of the Conference at which such provisions were accepted, of a clause whereby the States would undertake within a reasonable period to convene a Conference for the purpose of examining a plan for the complete abolition of customs duties between the countries concerned.
3. Condemns the use of quantitative restrictions as a protective device and declares that they must never neutralise or reduce the effects of the lowering of duties envisaged in the above paragraphs.
4. Instructs the Secretariat-General to keep in touch with the leading official organisations concerned with these problems and, in particular, to study in co-operation with GATT the technical problems arising from the application of the above three Principles, with the final object of drawing up a more detailed plan for the implementation of a " Low Tariff Club " which should take account of the difficulties of the individual States.
5. Instructs the Secretariat-General so far as possible to associate itself with the work of the special committee which was set up in Geneva in October, 1951, and has been given the task of studying suggestions submitted for the lowering of customs duties on a regional basis and of examining the plan drawn up by the French Minister M. Pflimlin, and
6. Recommends that the Committee of Ministers acquaint Governments with the proposals herein contained and requests them to formulate suggestions whether for an international conference or joint action within the framework of the General Agreement or for other appropriate means to ensure their implementation.

B.**1. Introduction****1.1.**

During its meeting in July the Committee on Economic Questions of the Consultative Assembly of the Council of Europe instructed the Secretariat-General " to study, in consultation with such persons as it considers competent, the general problem of the establishment of a single market in Europe and in particular the possibility of establishing in Europe a ' Low Tariff Club ' as a first step towards European unification and the abolition of customs barriers ".

The Secretariat-General, while realising that a thorough investigation into the problem of lowering European customs barriers was a much-felt need at the present time, fully appreciated the fact that this problem involves technical questions with which the majority of people are not sufficiently familiar.

It thought therefore that it could only usefully present the Assembly with a report on the various possible forms of concerted action by Member States to lower customs barriers if it were accompanied by a theoretical study enabling practical solutions to be explored in the light of the general theory of international trade ².

The Secretariat-General also examined the specific proposals submitted to it for the achievement of the above-mentioned aim, including some which did not emanate from members of the Consultative Assembly but which, in its opinion, deserved favourable consideration.

The Secretariat-General called on a number of especially qualified persons to help study proposals. Several meetings were held in Paris, which were attended in a personal capacity by : Mr. R. Barton, Director of the Research Department of the International Chamber of Commerce; M. M. Dreyfus, President of the Federation of Importers of Metallurgical Products, I. C. C; M. van Esbroeck, Professor at the University of Ghent (Belgium) ; M. Janson, Delegate of the National Bank of Belgium; M. Roux, President of the Bureau Tarifaire of the European Customs Union Study Group (Brussels); M. Royer, Deputy Executive Secretary of the Interim Committee of the International Trade Organisation; M. de Sainte-Lorette, Director of the Institut d'Études Sociales et Économiques (Paris); M. Sermon, Secretary-General of the European League for Economic Co-operation.

The Secretariat-General does not pronounce either for or against any of the proposals described in this Report. Its aim is to point out their respective advantages and the obstacles to their practical implementation.

The experts who lent their services to the Secretariat-General did so in a purely personal capacity, and the views they expressed individually on this subject do not necessarily reflect those of the organisations to which some of them belong or have belonged in the past; neither were any of these experts asked to adopt the report as a whole, and it is therefore submitted under the sole responsibility of the Committee.

2. CHAPTER I

The Consultative Assembly of the Council of Europe urges a lowering of customs Barriers between Member States. Brief outline of endeavours hitherto made in this field.

When, in a Memorandum to European Chancellories in 1897, Count Goluchowski, Austrian Minister for Foreign Affairs, proposed concerted action for the lowering of customs barriers in Europe, the language he employed bore a remarkable resemblance to that heard so often during the past few years in the Assembly Hall of the Council of Europe at Strasbourg. " Europe has arrived at the decisive crossroads of its development, " wrote the Count. " The disastrous tariff competition which we are waging against each other, and with which we have to contend overseas, must cease if we do not wish it to harm the vital interests of Europe and see Europe fall into gradual decline. The nations of Europe must unite in defence of their very existence. "

The Austrian Minister's Memorandum represented the first serious attempt to bring the problem of lowering European Customs tariffs into the diplomatic and political sphere.

2. This theoretical study forms the subject of a separate Memorandum drafted by the Secretariat-General.

Since then repeated efforts have been made to deal with this question but all have more or less failed. It was not until the World Economic Conference met at Geneva in 1927, under the auspices of the League of Nations, that any important full-scale negotiations took place to find a practical solution to the problem. The recommendations adopted by the Conference were warmly welcomed by world public opinion, and 29 Governments declared themselves ready to support any joint action undertaken. But this movement towards the liberalisation of trade, instigated by the Conference, was arrested by the economic crisis of 1929. An important enquiry published at this time by the Secretariat of the League of Nations explained the technical difficulties of all kinds which face so ambitious a plan as that of lowering customs barriers.

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A few years later the eventual failure to implement the Ouchy and Oslo Agreements (in the case of the Ouchy Agreement, because certain countries refused to surrender the benefits of the most-favoured-nation clause), appeared to confirm the magnitude of the obstacles in the way of achieving a " Low Tariff Club " (to use M. Ohlin's expression) in Europe.

It was only in recent years that a method of multilateral negotiations was created by the General Agreement on Tariffs and Trade, a method which has opened up new ways of achieving a general reduction of tariffs.

Proposals by the Benelux delegations at Torquay

In the course of the negotiations held at Torquay between September, 1950 and April, 1951, the representatives of a number of European Members of GATT exchanged views on the results which might be expected from these negotiations, so far as European tariffs were concerned.

They felt that, whilst the method pursued by GATT had already led to appreciable results, it had proved inadequate for a more ambitious objective such as that of lowering tariffs fairly rapidly within a restricted group of countries. They held that the present European situation, and the efforts already made in various quarters to promote economic integration, warranted making the lowering of tariffs between European countries a primary objective.

The Netherlands and Belgian delegations put forward proposals which were duly considered by the representatives of a number of European countries, including France, Germany and Italy. Whilst reserving their views on the substance of the proposals, these representatives agreed to entrust the examination of all suggestions for the lowering of European customs duties to a Working Party.

A Resolution was submitted to the High Contracting Parties, and adopted by them, inviting Member Governments to " submit considered proposals for multilateral or other procedures designed to achieve on a non-discriminatory basis a reduction of disparities in the tariffs of the European countries concerned, taking into account, to the extent necessary, the disparities in the economic and social structure of the different countries. "

Under the same Resolution it was recommended that a Working Party should be set up with, inter alia, the following terms of reference :

- a. To consider, in the light of their compatibility with the general principles of GATT, the proposals submitted by Governments and to formulate such recommendations as would be necessary to fit these proposals into the framework of GATT.
- b. To consider the problems that might arise in relation to securing adequate compensation from such other countries as might be likely to benefit from the non-discriminatory extension of the arrangements proposed. "

The problem of the lowering of customs barriers discussed in the Consultative Assembly

Whilst appreciating the progress achieved during the various GATT conferences, several Representatives to the Consultative Assembly of the Council of Europe expressed the view— before the question was raised by Benelux delegations at Torquay—that direct negotiation between European countries might achieve more concrete and rapid results than talks on a world-wide scale within the framework of GATT. It was also recognised that, as one of the Council's main objectives was " to achieve a greater unity between its Members

" in both the economic and political fields, such unity could only be realised by attacking the barriers which at present divide States; as the method of negotiation followed by GATT had not been conceived with a view to promoting the economic integration of Europe, this latter objective could only be achieved if it was felt, by steps taken, at least in the beginning, at a European level.

It was in this spirit that at last year's Session of the Consultative Assembly, M. Ohliri tabled a proposal for the establishment of a " Low Tariff Club " between Members of the Council of Europe, requesting the Secretariat-General to study the technical questions involved in implementing the proposal.

M. Moutet tabled a Motion for the appointment of a Special Committee to study the question of a European Customs Union.

Finally, Mr. Mackay, after making several statements on the problem of the economic integration of Europe, submitted a number of concerted proposals to the Assembly, including one for the " detailed examination of proposals relating to the elimination of customs barriers. "

All these proposals were supported by a large number of Representatives. It became apparent in the course of thorough debate by the Assembly on the whole problem that, if new efforts were to be made to find solutions at a European level, such efforts would be welcomed and encouraged by a large majority of the delegates.

At the request of the Committee on Economic Questions, therefore, the Secretariat-General undertook to study the problem and submit a preliminary Report in time to be discussed by the Consultative Assembly during the second part of its Third Session.

As already indicated in the Introduction, the final report will be divided into two parts. The first will consist of an analysis of the practical proposals made for the lowering of customs barriers in Europe, and the second will deal with the historical and theoretical aspects of the problem, viewed in the wider framework of the establishment of a single European market.

It was also agreed that one chapter of Part I would be devoted to M. Ohlin's proposal, the Committee on Economic Questions having requested that it be given particular consideration.

A further chapter of Part I will describe a plan, based on the essential principles of M. Ohlin's proposal, which contemplates the lowering of tariff barriers in Europe by stages, taking due account of the Resolution passed at Torquay on the proposal of the Benelux delegations.

3. CHAPTER II

Proposal of M. Ohlin for establishment of a " Low Tariff " Club in Europe

In the explanatory memorandum to the Motion for a Recommendation which he submitted to the Consultative Assembly in August, 1950 M. Ohlin said : " Thus, if we want a quick result from a European tariff policy, it would probably be preferable not to aim at what at present seems impossible, but rather to pursue a less ambitious objective, namely to keep the import duties in democratic Europe at a relatively low level. This would presuppose a tariff reduction in countries where the tariff is at present rather high, together with an undertaking by low tariff countries to abstain from any essential increase in the degree of protection. "

And he went on to say :

" The GATT Agreement and the International Trade Organisation, and the accompanying negotiations, have achieved considerable tariff reductions. But progress at this worldwide level has been slow, and it may be worth while to seek more rapid progress at the European level towards a liberal trade policy. Such policy, if successful, might prove to be the first step towards a tariff union. "

After having thus introduced his proposal, M. Ohlin came to the core of the matter, advocating that an enquiry be held " into the technical implications of an agreement to keep the average level of import duties for all commodities taken together below a certain maximum level, in other words a ' Low Tariff Club. "

" An agreement of this kind "—concluded M. Ohlin, " would make it easier for Governments and Parliaments to withstand claims for tariff increases from pressure groups. It would leave each country considerably free to handle its policy without any detailed control by an international agency. "

The discussions which took place during the meetings of the experts consulted by the Secretariat-General made it possible to define more completely the scope of M. Ohlin's proposal and to bring out its political and technical aspects. It was unanimously agreed at these meetings that it was essential to avoid any possibility of the extra-European countries, particularly the United States, seeing in the establishment of a Low Tariff Club in Europe an attempt to discriminate against them. The fundamental principle of the Low Tariff Club, it was once more asserted, must be the adoption of a liberal policy of low tariffs. Only in this way, and by manifesting their good will, could the European countries put themselves in a favourable position to ask the extra-European countries in their turn to reduce their import duties.

On the question whether the Council of Europe is competent to deal with tariffs, the opinion was expressed that, since considerable progress had already been made towards lowering tariffs through bilateral negotiations within GATT, this latter organisation seemed at the present time to be the most suitable to handle the matter. Although it was acknowledged that the work of the various international organisations sometimes involves duplication, it was unanimously agreed that the Council of Europe could lend its political support to the plan, without thereby preventing GATT from examining the problem and finding a satisfactory solution within its own framework.

At the moment the essential thing appeared to be to draw public attention to the gravity of the customs barrier problem and the need for a speedy lowering of tariffs.

As for the technical implications of an agreement for the establishment of a Low Tariff Club in Europe, M. Ohlin's suggestion for defining, in the case of each country, the average level of import duties for all commodities taken together has been discussed at length.

M. Ohlin explained that the method of defining for each country the average rate of import duties and asking these countries to undertake not to reduce specific tariffs but to keep the average level below a certain maximum had the advantage of leaving each country completely free to raise or lower certain tariffs at will, provided the average level remained sufficiently low.

It was emphasized, however, that to establish an index acceptable to all countries concerned would give rise to considerable difficulties. To work out such an index of average levels, some fifty products regarded as of particular importance would need to be selected, and this would provide the first difficulty. Countries disputing the average level assigned to them could easily assert that the fifty products had been chosen arbitrarily. Even greater difficulties are involved in the weighting of the various duties. They are of the same nature as those already mentioned above concerning the selection of the goods, but the existing divergences between the situations of the nations are even greater in this case—and so also the risks of discrimination. The League of Nations made an attempt in 1927 when it produced its important memorandum on "Tariff Level Indices" which was greeted in many quarters with protests and accusations that the methods employed were arbitrary.

Finally, it was observed that, even should the Contracting Parties accept these average levels, these countries could easily alter their tariffs after a time, claiming that the "average level" had remained the same and proving it by copious statistics.

A detailed analysis of the arguments for and against the fixing of an index of average levels of import duties for all commodities taken together lies outside the scope of this part of the Report. As suggested in M. Ohlin's proposal, a more detailed study, which will be found in Chapter VII of the Memorandum³.

The "Low Tariff Club" and the most-favoured nation clause

3. See 3rd Session, 1951 : [Doc. 62](#) Appendix. Note. The proposal submitted by M. Pflimlin last September to the Contracting Parties of GATT at their session in Geneva is in its technical aspects very similar to that of M. Ohlin. In the Pflimlin proposal, as in M. Ohlin's, the establishment of an index of average levels is advocated as an instrument to make possible the lowering of tariffs. In a press statement M. Pflimlin expanded his views on this point : "The French delegation does not propose a uniform reduction of customs duty on each individual item, but a lowering of the weighted average level of import duties for each major sector of the economy : raw materials, semi-finished goods, foodstuffs, capital equipment, industrial consumer goods and so forth." It should be underlined, in this connection, that the Pflimlin proposal does not advocate fixing a single weighted average level of all duties in each country, but fixing 5 average levels of duties for 5 major economic sectors for each country. It goes without saying that this means a certain mitigation of the technical difficulties mentioned above. It should further be observed that the Pflimlin proposal does not apply only to European countries, but to all the Contracting Parties of GATT.

Apart from the technical difficulties described in the previous paragraph, account must be taken, in the establishment of a Low Tariff Club in Europe, of the most-favoured-nation clause to which States are pledged either by virtue of Article 1 of the GATT (of which all Members of the Council of Europe are signatories) or by bilateral conventions.

Under the general provisions of GATT the most-favoured-nation clause may be waived in two cases for the sake of substantially lowering tariffs among a restricted number of countries.

The first case is the creation of a Customs Union. If the object of the latter were to " facilitate trade between the parties and not to raise barriers to trade of other contracting parties with such parties, " the provisions of GATT would not, subject to certain reservations, constitute any obstacle to such a union.

The second case is the creation of " free trade areas. " The difference between a " free trade area " and a Customs Union is that the former does not require the establishment of a common external tariff. This has the considerable advantage of avoiding a large number of technical problems involved in the creation of a Customs Union. Countries forming a free trade area undertake only to do away with customs barriers between each other. The economic readjustments entailed by a progressive abolition of tariffs between members of the free trade areas will naturally result in an assimilation between tariffs imposed by member states in respect of third party countries.

The General Agreement also provides that the most-favoured-nation clause may be waived in the case of a " provisional agreement " concluded for the establishment of a customs union, provided this agreement contains " a plan and schedule for the formation of such a customs union within a reasonable length of time. "

M. Ohlin appears to have considered this possibility. In paragraph 3 of his Motion to the Assembly, he states : " Should the Member States be allowed to have higher import duties on goods coming from " outside countries " ? If so, the most-favoured-nation clause has to be modified. The agreement would then be specifically regarded as constituting the first step towards a tariff union. "

The GATT provisions on this point are, however, very strict, stipulating—as stated above—that the States must submit a " plan and schedule. " Is it likely that the Member States of the Council of Europe would wish, under present conditions, to undertake so serious a commitment?

GATT, on the other hand, provides for another possibility : " In exceptional circumstances, not elsewhere provided for in this Agreement, the Contracting Parties may waive an obligation imposed upon a Contracting Party by this Agreement, i'provided that any such decision shall be approved by a two-thirds majority of the votes cast, and that such majority shall comprise more than half of the Contracting Parties. " (Art. 25 (5)).

It is by virtue of this Article that the Schuman Plan could be integrated in the framework of GATT. If the members of GATT consent to the countries of the Coal and Steel Community waiving Article 1 of the General Agreement, however, this would be in the light of political considerations of a very high order. It is unlikely that a Low Tariff Club in Europe would be granted a similar concession.

It must therefore be expected that, if European countries wish to conclude a preferential agreement among themselves without the consent of third parties, they would have to give up all the tariff advantages so far obtained, particularly those under the General Agreement. They would certainly greatly hesitate to take a decision involving such serious consequences.

The Low Tariff Club must be based on the principle of " non-discrimination "

If the foregoing considerations are accepted, it necessarily follows that the Convention for the establishment of a Low Tariff Club, although originally negotiated between European States, must be made accessible to all other countries.

At the first meeting of the experts M. Ohlin clearly explained that in his view the Low Tariff Club Agreement would need to be made an open Convention. The proposal, however, which he submitted to the Consultative Assembly is only given in outline and does not examine in detail the question of providing a procedure to facilitate the accession of third parties to the Convention or to obtain compensation from the latter, in the event of the tariff reductions provided for under the Convention being extended to them without discrimination.

The Secretariat-General, with the assistance of the Experts, has made a thorough study of this aspect of the problem.

An analysis has been made of several plans recently put forward to deal with these difficulties. Particular consideration has been given to the plan submitted by M. Pflimlin, on 20th September, 1951, to the GATT conference at Geneva. As has already been said, considerable similarity has been shown to exist in certain respects between this plan and M. Ohlin's, particularly with regard to the establishment of an index of average levels advocated in both plans. The Pflimlin Plan also proposes a lowering of tariff barriers " by stages " and thus accords with the suggestions advanced at Torquay during the discussions following the Benelux proposal mentioned in the previous Chapter.

The Secretariat-General, maintaining M. Ohlin's original proposal as a basis, has directed its efforts to seeking a solution by which it will be possible to reconcile the need for a reduction of tariffs in Europe with the adoption of a procedure for negotiating with the extra-European States the extension to them of the advantages of the tariff reductions agreed upon among the members of the Low Tariff Club.

The chapter which follows puts forward a solution which appears to meet these requirements.

4. CHAPTER III

The lowering of Customs Duties by stages would make possible the creation of a European Low Tariff Club on a non-discriminatory basis

This procedure by stages is based on two considerations. First, it is assumed that the method adopted for the lowering of tariffs in Europe must accord with the general standards contained in GATT, and must, in particular, observe the rule of non-discrimination. Second, it is felt that provisions must be laid down to ensure that third-party countries benefiting from the agreement without discrimination offer adequate compensation.

These two principles are similar, to those which were introduced into, and form the main point of, the Resolution adopted by the members of GATT on the initiative of a group of delegates from European countries at the end of the Torquay meeting.

As for procedure, the following plan of action could be adopted. The Consultative Assembly of the Council of Europe should be asked to give its approval to three basic principles (see below). The Secretariat-General of the Council of Europe should then thoroughly examine the technical implications of the plan together with the appropriate international organisations. Once all the technical factors have been assembled and studied, it would then be for the Committee of Ministers to see that the plan entered the sphere of diplomatic negotiations between the parties concerned.

The Three Principles

1. The High Contracting Parties shall undertake by Convention not to retain as between one another any customs duties exceeding 35 %, beyond a date to be fixed in the Convention and in any case not later than the date of completion of the successive stages of this plan. In order to facilitate the application of this Principle by the High Contracting Parties, States which have high customs duties of a fiscal nature shall be permitted, within the above-mentioned period, to convert such duties into taxes imposed equally on imported and internally produced commodities.

2. The High Contracting Parties shall undertake not to retain or impose on goods originating from other High Contracting Parties any import duties exceeding 5 % in respect of raw materials, 15 % in respect of semi-finished goods and 25 % in respect of finished goods and food products. The provisions of the second paragraph of the First Principle concerning the possible conversion of certain customs duties into taxes applying equally to foreign and to home-produced goods shall apply also to the provisions of the foregoing paragraph. During the first year the undertaking laid down in the first paragraph of this Principle shall apply only to 70 % of the total import trade of each country in any of the categories specified above. During the second year it shall be extended to 80 % and during the third year to 90 %. The High Contracting Parties shall undertake before the end of the third year to determine the procedure and lay down the conditions whereby the above ceilings may be extended to all their minimum tariffs. The High Contracting Parties shall undertake to open negotiations for the purpose of fixing tariff ceilings for individual goods of particular importance in intra-European trade.

3. The Convention shall be open to all countries and independent customs areas willing to accept the obligations therein laid down. Since the adoption of the Three Principles set out above would be merely a stage in the process of achieving a European Customs Union, there should be included, either in the Convention to be signed by the Contracting Parties or in the Final Act of the Conference at which these

provisions are accepted, a clause whereby the States undertake to convene a Conference within a reasonable period of time for the purpose of studying a plan for the total abolition of customs duties between the countries concerned.

General Considerations

While continuing to adhere to the basic principles and spirit underlying GATT, it must be emphasised that the foregoing plan places States under far greater obligations than the terms of that Agreement.

Under the General Agreement States grant reciprocal tariff concessions on a purely voluntary basis. Under the plan outlined above, however, the States would embark on a course entailing more or less automatically a series of successive tariff concessions.

It will be noted that the three basic principles of the plan make no mention of the restrictions imposed on international trade by import quotas, since the question of the removal of trade restrictions goes beyond the immediate task assigned to the Secretariat-General by the Economic Committee. Nevertheless the question has not been overlooked; and it seems that, if the Consultative Assembly agrees to adopt these three principles, it should solemnly reaffirm in a preamble to its Recommendation that quantitative restrictions are to be condemned as a means of protection, and, in particular, must not be allowed to cancel out or to diminish the scope of the reductions in duties provided for in the Convention.

Comments on the Three Principles

First Principle

Under the First Principle, States undertake not to retain between one another customs duties exceeding 35 %. The time-limit has, purposely, not been specified. It should, however, be relatively short, since it is specified that during the transitional period the Governments will retain their freedom in the matter of tariffs with regard to a certain percentage of their import trade. A period of one year might be considered reasonable.

The fixing of a maximum tariff rate is one of the keystones of the plan. If it is to be effective, it must be applied without any reservations, except in cases where reductions to the proposed extent would meet with particularly serious difficulties. Such cases should be specified before the Agreement is signed and should be made to constitute a reservation, to be approved by all the Contracting Parties.

As for the level of this ceiling, the rate proposed is only tentative, and later and more detailed investigations might reveal the need to fix a different rate.

The Secretariat-General has already made preliminary investigations to see whether the application of the maximum rate of 35 % would cause insuperable difficulties⁴. It appears that this level is not such as to necessitate a reduction in British key industries duties (33 1/3 %). It was also discovered that in the chemical products group, to take one major sector, Germany imposes duties of above 35 % on 11 % of the headings in this group; Italy on 16 %; Denmark on 9 %. In the artificial plastics group, Germany imposes duties of above 35 % on over 38 % of the headings, followed by Italy (16 %) and France (13 %). Finally, three countries—Greece, Austria and Portugal—impose duties above 35 % on a large number of commodities.

It would, obviously, be premature to draw any definite conclusions from these figures, since it is impossible to assess from them the practical difficulties of imposing a 35 % ceiling. To appreciate these difficulties it would be necessary to know the total volume of those imports on which the duty levied lay above this rate.

It is, moreover, expressly specified in paragraph 2 of point 1 that " In order to facilitate the application of this principle by the High Contracting Parties, States which have high customs duties of a fiscal nature shall be permitted to convert such duties into internal, non-discriminatory taxes... "

It is well known that very high duties are often fiscal duties ; this is particularly so in the case of countries like Portugal or Greece, whose tariff systems are designed to be a source of revenue to the State rather than a measure of protection.

4. See Appendix : I. Average customs Tariffs for selected industrially important Commodity Groups.

The conversion of fiscal tariffs into taxes is not prohibited under the General Agreement. From the administrative point of view no serious obstacles to this procedure appear to exist. The French Government has replaced in 1948 part of its duties on petroleum products by internal taxes without, apparently, raising any particular difficulty.

Second Principle

The Second Principle explains how this plan is to be applied in practice, and what is its ultimate aim.

Once a duty ceiling has been fixed, above which no tariff rates may be fixed the next stage is to define three maximum levels for the three main groups of commodities. The countries are given a certain time to adjust their tariffs to these levels; at the same time, they are asked to start negotiating individual ceilings for products of particular importance for inter-European trade. The final aim of the plan is thus made clear. After fixing the external framework for the tariff reductions, the Governments are required to negotiate a lowering of duties on the major part of inter-European trade.

As stated above, the machinery of this plan will involve the States in a process which will oblige them to agree to a series of successive tariff reductions.

Paragraph 1 of the Second Principle calls for certain comment as to the height of the ceilings and the division of the imports into three groups.

The 5 % 15 % and 25 % levels are purely tentative. As in the case of the 35 % ceiling, the final rates can only be fixed after detailed investigation, but it is clear that these rates should be as low as possible.

The fixing of these levels is also bound up with the problem of quantitative restrictions in international trade. It may be thought wiser to vary the ceilings according to whether the goods are imported freely or on quota. Thus, for instance, instead of one maximum rate for all finished goods, two would be fixed : the 25 % rate would apply to freely imported finished goods and a lower ceiling for finished goods imported on quota.

The adoption of two series of ceilings, however, would raise serious difficulties.

No fixed lists of free imports and imports on quota exist. While O.E.E.C. has succeeded in reducing the number of goods subject to quantitative restrictions, the opposite has also been known to occur. The German Federal Republic, for example, at the invitation of O. E. E. C. itself, has reimposed certain quotas to meet exceptional circumstances and this has not been the only case during the last few months.

It thus appears wiser to keep to the original plan and only fix one series of ceilings, which would apply equally to goods imported freely and those imported on quota.

Certain objections may be raised to the division of imports into three groups, since it would doubtless be difficult to know in which group to put certain imports.

It has been considered necessary to mention foodstuffs separately in the Second Principle para. 1, and they have been put into the category of finished goods. On the other hand it has not been thought necessary to mention specially agricultural products which are not foodstuffs. Thus wood or cotton, for example, will quite naturally be classified as raw materials.

It would appear, in any case, relatively easy to solve doubtful cases by using as a basis the U. N. standard classification, which the Economic and Social Council has made obligatory for international statistics.

Paragraph 2 of the Second Principle fixes the percentages of imports to which these States undertake to apply the maximum rates defined above for the first few years after the agreement comes into force.

This formula, which provides for a transitional period during which the Contracting Parties are free to retain duties above these ceilings on certain goods of their own choosing, aims at precisely defining the final objective while granting national industries a reasonable time to adjust themselves to the ultimate duty level. Thus, a country like Germany could provisionally retain duties above 25 % in the artificial plastics group. Further, the countries could put into this category of reserved products those of particular interest to third parties. They would thus have time to negotiate the necessary agreements with these countries, in order to obtain adequate compensation according to the procedure described in the commentary to the Third Principle. Thus when an agreement is reached, they will be ready to take the next step and lower their duties on 10 % of the goods reserved during the previous year.

Third Principle

The undertakings to be given by the States in accordance with items 1 and 2 would be embodied in a Convention which would be " open to all countries and independent customs areas willing to accept its terms. "

It should be pointed out in this connection that the majority of European States are bound by the " most-favoured-nation clause, " either under the General Agreement on Tariffs and Trade, or through bilateral agreements with States not parties to the General Agreement.

It is improbable that these countries would automatically grant the benefits of this Convention failing certain concessions in return. In order therefore that the plan for reducing tariffs by stages may have a chance of success, the European States willing to adhere to this Convention should open negotiations with other countries which are unable to adhere to the Agreement but which would claim the benefits of the " most-favoured-nation clause " under the provisions of other international agreements.

It may be expected that, in return for the advantages which they would obtain from the reduction of European tariffs, States not themselves adhering to the Convention would offer substantial compensation, in the form of reduced tariffs on goods of interest to the European export trade.

By basing negotiations with non-adhering States invoking the " most-favoured-nation clause " upon the principle of compensation, and by requesting such countries to show a greater understanding of the situation in Europe and of the advantage offered by a single Europe market, it should be possible to reach an arrangement acceptable to all countries concerned.

It has already been pointed out that the General Agreement offers only two means of securing the reduction or abolition of tariffs within a limited area, namely by the establishment either of a customs union or of a free trade area. A solution such as that sketched out above would seem to offer a third possibility without abandoning the fundamental principles of the General Agreement.

Basing itself on the considerations set out in the Explanatory Memorandum, the Committee unanimously adopted the following draft Recommendation, which it hereby submits to the Assembly :

Appendix APPENDICES

COMPARATIVE TABLES OF THE MAIN CUSTOMS DUTY TENDENCIES

Introductory Note

The following tables have been established by the Secretariat-General on the basis of the document published by the Study Group for a Customs Union in Brussels entitled " Moyennes des Tarifs basées sur la Nomenclature de 1949-1950. " Wherever possible the data given in this publication have been altered to accord with any tariff changes resulting from the signature of the Protocol at Torquay.

Only the major categories of industrial products have been included in these tables, since this method could only with difficulty have been applied to agricultural and food products.

The figures supplied by the Brussels Study Group are percentages of ad valorem duties applied to a large range of products, themselves sub-divided in many cases according to certain characteristics. In order to obtain more significant results, certain headings have been regrouped into comparable units, and these units then divided into three main categories : 0 to 10 %, 11 to 35 %, and above 35 %. From the statistical point of view it may be assumed that the probable errors caused by re-grouping certain headings into comparable units will cancel each other out.

As has been emphasized earlier, in chapter III, the percentages given in these tables should only be regarded as general indications.

These tables fall into two categories :

1. General table for the major groups of industrial products giving percentages of duty for the categories 0 to 10 %, 11 to 35 %, and over 35 %.
2. General table based on the preceding one, giving the percentages of ad valorem duty over 35 % per country per group of product.

AVERAGE CUSTOMS TARIFFS FOR SELECTED INDUSTRIALLY IMPORTANT COMMODITY GROUPS

COMM ODITY GROUP	RATE OP DUTY (ad valore m)	GERM ANY	AUSTR IA	BENEL UX	DENMA RK	FRANC E	GREEC E	ITALY	NORW AY	PORTU GAL	U. K.	SWEDE N
Mineral s Firths Stone Coal Petrole um	0 to 10	75	73	98	100	84	34	80	93	79	83	97
	11 to 35	13	15	2	0	15	44	18	7	15	10	3
	36 and above	12	12	0	0	1	22	2	0	6	7	0
Iron Cast Iron Steel	0 to 10	28	10	81	98	15	14	3	84	63	6	94
	11 to 35	72	67	19	2	85	33	97	16	27	94	6
	36 and above	0	23	0	0	0	53	0	0	10	0	0
Non- ferrous metals	0 to 10	60	36	83	99	30	4	21	88	49	32	98
	11 to 35	40	57	17	1	70	60	67	12	51	68	2
	36 and above	0	7	0	0	0	36	12	0	0	0	0

COMM ODITY GROUP	RATE OP DUTY (ad valore m)	GERM ANY	AUSTR IA	BENEL UX	DENMA RK	FRANC E	GREEC E	ITALY	NORW AY	PORTU GAL	U. K.	SWEDE N
Timber and wood- product s	0 to 10	21	17	78	92	40	21	10	60	27	50	90
	11 to 35	52	50	22	4	60	48	90	40	66	50	10
	36 and above	27	33	0	4	0	31	0	0	7	0	0
Plasties , rubber, rubber and their product s	0 to 10	16	19	64	97	9	3	8	26	36	53	59
	11 to 35	46	71	36	3	78	19	76	74	45	46	41
	36 and above	38	10	0	0	13	78	16	0	19	1	0
Cement Cerami cs Glassw are	0 to 10	54	20	50	80	11	2	7	93	33	39	80
	11 to 35	43	68	50	20	89	19	66	47	37	61	20
	36 and above	13	22	0	0	0	79	27	0	30	0	0
Paper and Cardbo ard	0 to 10	9	22	22	94	7	2	7	87	19	11	95
	11 to 35	75	60	78	6	93	21	89	11	62	89	5
	36 and above	16	18	0	0	0	77	4	2	19	0	0
Chemic al product s	0 to 10	57	76	88	86	10	8	9	64	16	31	60
	11 to 35	32	14	12	5	89	72	75	36	77	68	39
	36 and above	11	10	0	9	1	20	16	0	7	1	1
Raw textiles	0 to 10	38	56	87	36	10	26	88	27	46	83	
	11 to 35	24	25	44	13	61	31	71	12	50	52	17
	36 and above	38	34	0	0	3	59	3	0	23	2	0
Finishe d Textiles	0 to 10	10	62	1	0	2	53	12	7	59		
	11 to 35	59	58	90	36	93	11	89	47	49	87	41
	36 and above	36	32	0	2	6	89	9	0	39	6	0

COMM ODITY GROUP	RATE OP DUTY (ad valore m)	GERM ANY	AUSTR IA	BENEL UX	DENMA RK	FRANC E	GREEC E	ITALY	NORW AY	PORTU GAL	U. K.	SWEDE N
Hides and Leather Hide and Leather product s Fur skins and furs	0 to 10	44	71	70	59	27	6	14	69	14	36	92
	11 to 35	52	28	30	39	73	65	84	31	58	64	8
	36 and above	4	1	0	2	0	29	2	0	28	0	0
Tools Cutlet, Various product s in Base Metals	0 to 10	46	12	44	89	1	0	1	53	48	1	93
	11 to 35	53	77	56	11	99	30	89	47	44	98	7
	36 and above	1	11	0	0	0	70	10	0	8	1	0
Transpo rt Material of all kinds	0 to 10	39	3	40	100	11	40	9	17	60	19	61
	11 to 35	56	58	60	0	87	57	67	83	35	80	
	36 and above	5	39	0	0	2	3	24	0	5	1	0
Carriag es Motor cars, Tractors , Cycles and other land vehicles	0 to 10	2	4	0	100	2	27	8	24	28	0	29
	11 to 35	84	18	100	0	93	63	24	76	58	98	71
	36 and above	14	78	0	0	5	10	68	0	14	2	0
Electric al machin es and apparatus	0 to 10	38	17	78	94	10	3	1	29	71	0	74
	11 to 35	58	73	22	6	90	82	75	71	25	100	26
	36 and above	4	10	0	0	0	15	0	0	4	0	0

COMM ODITY GROUP	RATE OP DUTY (ad valore m)	GERM ANY	AUSTR IA	BENEL UX	DENMA RK	FRANC E	GREEC E	ITALY	NORW AY	PORTU GAL	U. K.	SWEDE N
Optical photogr aphic and precisio n instrum ents	0 to 10	37	25	45	93	0	4	0	42	38	0	92
	11 to 35	63	75	55	7	100	63	38	58	62	100	8
	36 and above	0	0	0	0	0	33	62	0	0	0	0

PERCENTAGES OF TARIFF ITEMS SUBJECT TO A RATE OF DUTY EXCEEDING " 35 % " according to commodity groups and countries (industrially most important commodities)

1. Minerals : (Earths, stone, coal, petroleum. No. 25-27 of the 1949 Brussels Nomenclature).

Greece - 22 %

Austria - 12%

Germany - 12 %

United Kingdom - 7 %

Portugal 6 - %

Italy 2 - %

France - 1 %

2. Iron, Cast Iron, Steel [No. 73]

Greece - 53 %

Austria - 23 %

Portugal - 10 %

3. Non-ferrous Metals [No. 74-81]

Greece - 36 %

Italy - 12 %

Austria - 7 %

4. Timber and Wood-products [No. 44]

1. Austria - 33 %

2. Greece - 31 %

3. Germany - 27 %

4. Portugal - 7%

5. Denmark - 4%

5. Plastics, Rubber and their products [Nos. 39 and 40]

Greece - 78 %

Germany - 38 %

Portugal - 19 %

Italy - 16 %

France - 13 %

Austria - 10 %

United Kingdom - 1 %

6. Cement, Ceramics and Glassware [No. 68-70]

Greece - 79 %

Portugal - 30 %

Italy - 27%

Austria - 22 %

Germany - 13 %

7. Paper and Cardboard [No. 47 and 48]

Greece - 77 %

Portugal - 19%

Austria - 18 %

Germany - 16 %

Italy - 4 %

Norway - 2 %

8. Chemical products [No. 28-38]

Greece - 20 %

Italy - 16 %

Germany - 11 %

Austria - 10 %

Denmark - 9 %

Portugal - 7%

France - 1 %

Sweden - 1 %

United - Kingdom 1 %

9. Raw Textiles [No. 50-57]

Greece - 59 %

Germany - 38 %

Austria - 34 %

Portugal - 23 %

France - 3 %

Italy - 3 %

United Kingdom - 2 %

10. Finished Textiles [No. 58-63]

Greece - 89 %

Portugal - 39 %

Germany - 36 %

Austria - 32 %

Italy - 9 %

France - 6 %

United - Kingdom 6 %

Denmark - 2 %

11. Hides and Leather, Hide and Leather Products, Furskins and Furs [No. 41-43]

Greece - 29 %

Portugal - 28 %

Germany - 4 %

Germany - 2 %

Italy - 2 %

Austria - 1 %

12. Tools, Cutlery, etc. in base metals [No. 82 and 83]

Greece - 70 %

Austria - 11%

Italy - 10 %

Portugal - 8 %

Germany - 1 %

United Kingdom - 1 %

13. Transport material [No. 86-89]

Austria - 39 %

Italy - 24 %

Portugal - 5 %

Germany - 5 %

Greeoo - 3 %

France - 2 %

United Kingdom - 1 %

including motor cars, tractors, cycles and other land vehicles [No. 87]

Austria - 78 %

Italy - 68 %

Portugal - 14 %

Germany - 14 %

Greece - 10 %

France - 5 %

United Kingdom - 2 %

Electrical machines and apparatus [No. 84 and 85]

Italy - 24 %

Greece - 15 %

Greece - 10 %

Germany - 4 %

Portugal - 4 %

Optical, photographic and precision instruments etc.

Italy - 62 %

Greece - 33 %