

ANALYTICAL  
INDEX

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# GUIDE TO GATT LAW AND PRACTICE

VOLUME 1



WORLD TRADE  
ORGANIZATION

ANALYTICAL  
INDEX

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GUIDE TO  
GATT  
LAW AND  
PRACTICE

VOLUME 1  
Articles I-XXI

Geneva, 1995

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W T O  
WORLD TRADE  
ORGANIZATION

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## PREFACE

This volume presents a guide to the legal interpretation and application of the General Agreement, and a repertoire of GATT practice and drafting history, including decisions, panel reports and discussions between contracting parties. It is updated to 1 January 1995, the date of entry into force of the Marrakesh Agreement Establishing the World Trade Organization.

This updated sixth edition of the Analytical Index was prepared and updated by Amelia Porges with contributions by Friedl Weiss and Petros C. Mavroidis. It is a redrafted, reorganized and updated version of the fifth edition of 1989 which was prepared by Ernst-Ulrich Petersmann. The size of the Index has tripled from the fifth to the present edition mainly due to the addition of further material from the drafting history and the years 1948-1989, excerpts from the large number of recent panel reports, a chapter on the institutional aspects of the GATT, material on the transition from the GATT to the WTO, additional tables, and a subject index.

Suggestions for improvements are welcome and should be addressed to the Legal Affairs Division of the Secretariat.

Frieder Roessler  
Director, Legal Affairs Division  
World Trade Organization

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## I. INTRODUCTORY

### A. SCOPE

This book provides a guide to the interpretation and application of the General Agreement on Tariffs and Trade, drawn from official documentary sources of the GATT. The material is arranged in forty-three chapters covering the Preamble of the General Agreement, its thirty-nine Articles, Part IV, provisional application of the General Agreement, and the institutional and decision-making practice of the GATT, plus appendix tables and this introduction. Except where otherwise indicated, this edition has been updated to 1 January 1995, the date of entry into force of the Marrakesh Agreement Establishing the World Trade Organization. A new section in the chapter on Institutions and Procedure summarizes the decisions taken by the Preparatory Committee for the WTO and the CONTRACTING PARTIES to the GATT regarding the transition from the GATT to the WTO.

### B. STRUCTURE

Each chapter is structured in four sections: the text of the relevant GATT provisions, the application and interpretation of those provisions, the drafting history, and relevant documents.

- Section I includes the text of the Article concerned, the Interpretative Notes relevant to that Article from Annex I of the General Agreement, the provisions of other Annexes to the General Agreement where appropriate, and the text of relevant Understandings incorporated in GATT 1994.
- Section II includes excerpts from documents bearing on the interpretation of the General Agreement and the Havana Charter, and the practice of the CONTRACTING PARTIES in applying the provisions of the General Agreement in question. The material in Section II is arranged systematically corresponding to the phrase or word of the General Agreement interpreted or other relevant categories. Some chapters also include tables or other descriptive material.
- Section III provides a general account of the relevant preparatory work of the Havana Charter and the General Agreement, and a discussion of any relevant amendments to the General Agreement. Additional material on drafting history also may appear in section II.

- Section IV provides a list of relevant documents from the preparatory work, the early years of the GATT, and the Review Session of 1954-55. The document references for Articles V through X appear at the end of the chapter on Article X. In the case of Part IV of the GATT, which is the sole amendment since the Review Session, a list of relevant negotiating documents appears at the end of the chapter on Part IV.

## II. EDITORIAL CONVENTIONS AND GUIDE TO REFERENCES

The text of the General Agreement provisions quoted at the head of each chapter has been taken from the edition published by the Secretariat. The asterisks therein indicate the portions of the text which should be read in conjunction with the Notes and Supplementary Provisions in Annex I. These asterisks do not have any independent legal basis.

The names used to refer to contracting parties in descriptive material conform in principle to the most recent United Nations list of Member States. In historical references and in direct quotations, the names used at the time have been kept. References to the various European Communities (principally the European Economic Community) reflect those in the original documents referred to. The original spelling and punctuation have been kept in each quotation. Inconsistencies in these respects therefore reflect the variability of the original documents.

Because this work is both for general distribution and for use by contracting parties to the GATT, references are provided to some documents which are still subject to restriction. Verbatim quotations from unadopted panel reports that are still in a restricted status have generally been avoided except where the material has already appeared in derestricted GATT documents. The rules on document restriction and derestriction are discussed in the chapter on Institutions and Procedure.

As provided in Article XXV:1 of the General Agreement, wherever reference is made to the contracting parties acting jointly, they are designated as the "CONTRACTING PARTIES". An individual government which has accepted or provisionally applies the General Agreement is referred to as a "contracting party". Where a reference is prefaced by "it was agreed", it reflects an agreed interpretation by the body which drafted or approved the text of the Article in question, by the CONTRACTING PARTIES, or by the body otherwise cited. Where a reference is prefaced by "it was stated", this indicates that the statement was made by one or more delegates, but that the body in question did not pronounce itself on the validity or otherwise of the statement.

The indication that Reports of Panels and Working Parties were adopted on a certain date refers to adoption by the CONTRACTING PARTIES or from 1968 onwards, to the adoption by either the CONTRACTING PARTIES or the Council of Representatives (commonly referred to as the "GATT Council" or the "Council"). A reference to a panel report or working party report in relation to a particular year refers, unless indicated otherwise, to the year of adoption. In the case of reports which were not adopted or not subject to an adoption process, the year refers to the date of circulation of the report.

References to the Articles of the Havana Charter are given in Arabic numerals whereas the corresponding Articles in the General Agreement are given in Roman numerals. Whenever reference is made to an Article in the Charter, the corresponding Article of the General Agreement is often given within square brackets or otherwise indicated.

In this work, "General Agreement" has in general been used to refer to the agreement itself, and "GATT" to the institution or the institutional context, although the documents themselves are not always consistent in their usage. "WTO" refers to the World Trade Organization and "WTO Agreement" to the Agreement Establishing the World Trade Organization which was done at Marrakesh, Morocco on 15 April 1994 and entered into force on 1 January 1995. In conformity with Article II:4 of the WTO Agreement, "GATT 1947" refers to the General Agreement on Tariffs and Trade, annexed to the Final Act Adopted At the Conclusion of the Second Session of the Preparatory Committee of the Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified. "GATT 1994" is as defined in the text "General Agreement on Tariffs and Trade 1994" in Annex 1A of the WTO Agreement; see further in the chapter on Institutions and Procedure.



The material in this work has been taken from the preparatory work for the Havana Charter and the General Agreement; the decisions, panel reports, working party reports and legal instruments collected in the Basic Instruments and Selected Documents (BISD) series; the session records of the CONTRACTING PARTIES; the minutes of the Council of Representatives; and other GATT documents. A list of document series appears below.

Citations in footnotes generally include the original GATT document series symbol and number for the source document, a citation to its reprinted version in the BISD series, and the BISD page and paragraph number for the passage quoted. For instance, the citation "L/833, adopted on 23 October 1958, 7S/60, 63, para. 6" refers to paragraph 6 of a document which was originally issued as L/833, which was adopted by the CONTRACTING PARTIES on 23 October 1958 and which was then reprinted starting on page 60 of the Seventh Supplement of the Basic Instruments and Selected Documents series; the paragraph in question is to be found on page 63 of the Seventh Supplement. Repeated citations to the same material or the same document are indicated by the word "*Ibid.*" Where a document has been published twice and the texts diverge, the most widely available version (normally that printed in the BISD series) is used except where otherwise noted.

Information on how to obtain copies of the documents cited and other GATT documents appears at the end of this introduction.

### III. DRAFTING OF THE HAVANA CHARTER AND THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The General Agreement on Tariffs and Trade was agreed during negotiations which partially paralleled the negotiations for a larger agreement, the Havana Charter for an International Trade Organization. The negotiation of the Havana Charter took place during 1946-48, but the Charter never entered into force. The General Agreement was negotiated and agreed during 1946-47 and has been provisionally applied since 1 January 1948.

The idea of an International Trade Organization was developed in discussions during World War II on planning for reconstruction of the world trading system in the postwar period. The first public proposal was the 1945 document "Proposals for Consideration by an International Conference on Trade and Employment". The Proposals were developed by the United States and were published separately by the United Kingdom, which stated it was "in full agreement with all important points in these proposals". They proposed the establishment of an International Trade Organization of the United Nations, the members of which would agree to abide by the rules in the Charter of the Organization. The Proposals contained suggestions for rules to govern trade barriers, restrictive business practices, intergovernmental commodity arrangements, and the international aspects of domestic employment policies, and also proposed a structure for the Organization. Separate negotiations on reduction of tariff barriers were also to be conducted.

"Proposals for Consideration by an International Conference on Trade and Employment" in *Proposals for Expansion of World Trade and Employment*, US Department of State Publication 2411, Commercial Policy Series 79. Washington D.C. November 1945 (reprinted in Department of State Bulletin, Vol. XIII, Washington D.C., December 1945)

*Proposals for Consideration by an International Conference on Trade and Employment*, as transmitted by the US Secretary of State to H.M. Ambassador at Washington, 6th December 1945. HMSO. Cmd. 6709. London, 1945.

When it met for the first time in London in February 1946, the United Nations Economic and Social Council (ECOSOC) adopted a Resolution calling a United Nations Conference on Trade and Employment for the purpose of promoting the expansion of trade and production, exchange and consumption of goods. The Resolution established a Preparatory Committee of representatives of the governments of nineteen countries, to elaborate an

annotated draft agenda, including a draft convention for consideration by the Conference, taking into consideration suggestions which might be submitted to it by ECOSOC or any Member of the United Nations.<sup>1</sup>

In September 1946, the US Government published a more detailed "Suggested Charter" consisting of seven chapters, of which Chapter IV (Articles 8-33) dealt with commercial policy. This "US Draft Charter" became the basis for discussions at the First Session of the Preparatory Committee.

*Suggested Charter for an International Trade Organization of the United Nations*, US Department of State Publication 2598, Commercial Policy Series 93. Washington D.C. 1946.<sup>2</sup>

The First Session of the Preparatory Committee was held in London at Church House, Westminster from 15 October 1946 to 26 November 1946. The First Session adopted a Report of its deliberations (the "London Report"), which included a narrative account of the treatment of various agenda items, the draft Charter text provisionally agreed as of the end of the First Session, and various other documents.

*"London Report"*

*Report of the First Session of the London Preparatory Committee of the United Nations Conference on Trade and Employment* (UN Document EPCT/33). London: dated October 1946. Includes the "London Draft" of the Charter, as well as the ECOSOC Resolution of January 1946, the US Draft Charter, the agenda and rules of procedures for the Preparatory Committee, various other resolutions, and (in Annexure 10 at page 51) "Report on Procedures for Giving Effect to Certain Provisions of the Charter for an International Trade Organization by Means of a General Agreement on Tariffs and Trade Among Members of the Preparatory Committee".

The "London draft" is also included in *Preliminary Proposals for an International Trade Organization*, US Department of State Publication No. 2456, Commercial Policy Series 99, Washington D.C., 1947.

At the First Session, chapters on commercial policy, employment, restrictive business practices and commodity agreements were worked out, and a new chapter on economic development was added. However, no agreement was reached on voting or other organizational provisions nor on state trading; the technical articles (corresponding to GATT Articles III-X) were left incomplete. Work on the commercial policy provisions of the Charter took place almost entirely in Committee II and in subgroups thereof such as the Working Party on Technical Articles (Articles III-X) and the Procedures Sub-Committee (the most-favoured-nation clause, tariff schedules and tariff negotiations).

The First Session decided to convene a Second Session the following April to do further work on the Charter, and agreed that the governments members of the Preparatory Committee should hold a round of trade and tariff negotiations at that time. The Procedures Sub-Committee drew up a "Resolution Regarding the Negotiation of a Multilateral Trade Agreement Embodying Tariff Concessions",<sup>3</sup> and "Procedures for Giving Effect to Certain Provisions of the Charter of the International Trade Organization by Means of a General

<sup>1</sup>The members of the Preparatory Committee appointed by the Resolution were the representatives of the following countries: Australia, Belgium-Luxembourg Economic Union, Brazil, Canada, Chile, China, Cuba, Czechoslovakia, France, India, Lebanon, Netherlands, New Zealand, Norway, South Africa, the Union of Soviet Socialist Republics, the United Kingdom and the United States. All of these countries except the USSR became contracting parties to the GATT under the Protocol of Provisional Application. See copy of the Resolution in Annexure 1, p. 42 of the London Report (EPCT/33). The Union of Soviet Socialist Republics "indicated that it did not feel able to participate in the work of the Preparatory Committee as it had not found it possible to devote sufficient preliminary study to the important questions which were the subject of the Committee's discussion". All other members of the Preparatory Committee participated in the First and Second Sessions and the Drafting Committee. In addition, Colombia, Denmark, Mexico, Peru and Poland sent observers to the First and Second Sessions; Colombia and Mexico to the Drafting Committee; and the following countries also sent observers to the Second Session: Afghanistan, Argentina, Ecuador, Egypt, Greece, Iran, Saudi Arabia, Sweden, Thailand, Turkey, Uruguay, Venezuela and Yugoslavia. In addition, representatives of the International Labour Organization, the Food and Agriculture Organization of the United Nations, the International Monetary Fund and the International Bank for Reconstruction and Development participated without vote on agenda matters within the scope of their respective activities. The arrangements agreed in ECOSOC for consultation with non-governmental organizations were applied in respect of consultation with certain organizations having Category A consultative status with ECOSOC (the American Federation of Labour, the International Chamber of Commerce, the International Co-operative Alliance and the World Federation of Trade Unions). Geneva Report, p. 6.

<sup>2</sup>The US Draft Charter also appears in the London Report, EPCT/33, as Annexure 11, pp. 52 *et seq.*

<sup>3</sup>London Report, Annexure 7, p. 47-48.

Agreement on Tariffs and Trade Among the Members of the Preparatory Committee".<sup>4</sup> The Resolution, noting that the United States government had invited the members of the Preparatory Committee "to meet to negotiate concrete arrangements for the relaxation of tariffs and trade barriers of all kinds and the invitation has been accepted", recommended to the governments concerned "that the meeting envisaged by the invitations ... should be held under the sponsorship of the Preparatory Committee in connection with, and as a part of, the Second Session of the Committee".

The First Session also appointed a Drafting Committee of technical experts. The Drafting Committee met at Lake Success, New York from 20 January to 25 February 1947 and prepared a further draft of the Charter and a full draft of the General Agreement.<sup>5</sup>

*"Drafting Committee Report" or "New York Report"*

*Report of the Drafting Committee of the Preparatory Committee of the United Nations Conference on Trade and Employment* (UN Document EPCT/34). Lake Success, N.Y.: dated 5 March 1947. Includes the "New York Draft" of the Charter, and a draft General Agreement at page 65.

The Second Session of the Preparatory Committee was then held at the European Office of the United Nations in Geneva from 10 April 1947 through 30 October 1947. The Preparatory Committee at this session was organized in two plenary Commissions, of which Commission A considered commercial policy matters and Commission B considered other issues including the structure of the Organization. The Preparatory Committee completed work on 22 August 1947 on a draft Charter as a basis for discussion at the Havana Conference and submitted this draft to governments in their Report in early September. Meanwhile, the first round of GATT multilateral tariff negotiations was conducted between members of the Preparatory Committee.

*"Geneva Report"*

*Report of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment* (UN Document EPCT/186). 10 September 1947. Includes the "Geneva draft" of the Charter.

The tariff negotiations and the drafting of the General Agreement continued for two months afterward, principally in the Tariff Agreements Committee. Drafts of the General Agreement appear in the following Geneva documents: EPCT/135, EPCT/189, EPCT/196 and EPCT/214/Add.1/Rev.1. The results of the negotiations were embodied in the "Final Act Adopted at the Conclusion of the Second Session", signed at Geneva on 30 October 1947 by representatives of the twenty-five governments involved. The Final Act, including the 30 October 1947 text of the General Agreement, the Schedules of Tariff Concessions negotiated at Geneva in 1947 and the Protocol of Provisional Application, was published by the United Nations.

*"Geneva Final Act"*

*Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment* UN Sales No. 1947.II/10. Four volumes including text of Final Act and General Agreement on Tariffs and Trade, Schedules I-XX and Protocol of Provisional Application; 55 UNTS 187.

The following publications of the United States and United Kingdom Governments are also relevant:

- |               |   |
|---------------|---|
| US Government | <i>Analysis of the General Agreement on Tariffs and Trade, signed at Geneva, 30 October 1947.</i> US Department of State Publications 2983, Commercial Policy Series 109. Washington, D.C. 1947         |
| UK Government | <i>Report on the Geneva Tariff Negotiations, with text of the General Agreement on Tariffs and Trade, and supplementary agreements with the United States and Canada.</i> HMSO. Cmd. 7258. London. 1947 |

Provisional application, under the Protocol, of the 30 October 1947 text of the General Agreement began as of 1 January 1948.

<sup>4</sup>London Report, Annexure 10, p. 48-52. See also generally the verbatim records of the Sub-Committee on Procedures, EPCT/C.II/PRO/PV/5-15 and its summary records in the series EPCT/C.II/W/2-31.

<sup>5</sup>The same eighteen governments were represented in the Drafting Committee, with observers from the same intergovernmental organizations, Colombia, and Mexico.

The United Nations Conference on Trade and Employment was then held at Havana, Cuba, from 21 November 1947 to 24 March 1948. At the conclusion of the Havana Conference the "Final Act and Related Documents of the United Nations Conference on Trade and Employment", which included the text of the Havana Charter for an International Trade Organization, was published in English and French by the United Nations and in English, French and Spanish by the Interim Commission of the International Trade Organization. The text of the Havana Charter was also published in English by the United States and United Kingdom Governments. An authentic text of the Charter in Spanish was established in 1949 and appears in the Spanish-language ICITO edition of the Havana Final Act.

*United Nations Conference on Trade and Employment held at Havana, Cuba, from 21 November 1947 to 24 March 1948: Final Act and Related Documents.* UN Document E/Conf.2/78, dated April 1948. UN Sales No. 48.11.D.4. Includes the Havana Final Act, the Havana Charter and annexes, and Conference resolutions.

*United Nations Conference on Trade and Employment held at Havana, Cuba, from 21 November 1947 to 24 March 1948: Final Act and Related Documents.* Interim Commission for the International Trade Organization, Lake Success, New York (reprint of UN Document E/CONF.2/78), dated April 1948. Includes the Havana Final Act, the Havana Charter and annexes, and Conference resolutions.

*Havana Charter for an International Trade Organization.* US Department of State Publication No. 3117, Commercial Policy Series 113, Washington D.C. 1948. Also published with a commentary: *Havana Charter for an International Trade Organization, March 24, 1948, Including a Guide to the Study of the Charter*, by R.P. Terrill. US Department of State Publication 3206, Commercial Policy Series 114, Washington D.C. 1948.

*United Nations Conference on Trade and Employment. November 21, 1947, to March 24, 1948. Final Act and the Havana Charter for an International Trade Organization, with related documents.* HMSO. Cmd 7376. London 1948.

The Executive Committee of the Interim Commission for the International Trade Organization (ICITO), at its first meeting, directed the Executive Secretary to "publish the reports of the principal committees [of the Havana Conference], supplemented by such sub-committee reports and other documents or extracts as may be necessary for an understanding of such reports".<sup>6</sup> These were published by ICITO under the title *Reports of Committees and Principal Sub-Committees*: ICITO I/8, Geneva, September 1948 (reprinted by the GATT). In this Analytical Index, this publication is referred to as "Havana Reports".

The Havana Charter never entered into force. No acceptances of the Charter were received by the Secretary-General of the United Nations, its depositary. On 6 December 1950 the United States Department of State issued a statement of policy indicating that the Havana Charter would not be submitted again to the United States Congress. It subsequently became evident that the establishment of the ITO would be indefinitely postponed.<sup>7</sup>

#### A. APPLICATION AND AMENDMENT OF THE GENERAL AGREEMENT

Article XXVI:6, as revised in 1955, provides that the General Agreement will enter into force, as between governments which have accepted it, on the thirtieth day following the day on which instruments of acceptance have been deposited on behalf of governments named in Annex H, representing 85 percent of total external trade of the territories of such governments, computed in accordance with the percentages in Annex H. However, the General Agreement has been accepted definitively only by Liberia and Haiti, and therefore has never entered into force. Instead, the General Agreement has been applied provisionally by contracting parties under the Protocol of Provisional Application or subsequent Protocols of Accession to the General Agreement.

The Protocol of Provisional Application, attached to the Final Act of the Second Session of the Preparatory Committee, provided that the signatory governments would apply provisionally on and after 1 January 1948 Parts I and III of the General Agreement, as well as Part II of the General Agreement to the fullest extent not inconsistent with existing legislation. All accession protocols since the 1949 Annecy Protocol have provided that

<sup>6</sup>ICITO/EC.1/SR.1.

<sup>7</sup>Sec/36/53. The US announcement of its decision not to resubmit ITO to Congress appears in GATT/CP/86 dated 7 December 1950. See also under Article XXIX.

acceding governments would provisionally apply the General Agreement in the same manner. See the chapters of this Index on the provisional application of the General Agreement and on Article XXVI.

The text of the General Agreement, as agreed in 1947 and first provisionally applied beginning 1 January 1948, was based on the commercial policy provisions of the Geneva Draft Charter. It was envisioned that the general clauses in Part II might be further changed through negotiations at Havana; Article XXIX of the General Agreement therefore provided that when the Havana Charter entered into force, Part II of the General Agreement would be superseded by the corresponding provisions of the Charter. However, even after the Charter entered into force, Parts I and III of the General Agreement would remain in effect, and the ITO would coexist with the CONTRACTING PARTIES.

At the first three Sessions of the CONTRACTING PARTIES, amendments were agreed to bring the General Agreement text closer to the text of the Charter. The First Session of the CONTRACTING PARTIES, held during the Havana Conference, agreed to three protocols of amendment to enter into force before the Charter: two which replaced Articles XIV and XXIV respectively with provisions reflecting compromises reached at Havana<sup>8</sup>, and a third which amended accession provisions (inserting Articles XXV:5(b) and (c) and XXXV and amending Articles XXXII and XXXIII).<sup>9</sup>

At the Second Session of the CONTRACTING PARTIES, held in August and September 1948, a Working Party on Modifications to the General Agreement considered further incorporation of the results of the Havana Conference and decided to "limit amendments to cases where the retention of the present provisions of Part II would create serious difficulties for contracting parties".<sup>10</sup> The Working Party decided on the replacement of Articles III, VI and XVIII by their Havana counterparts, rewording of Article XXIX and a few other minor amendments. Due to the different acceptance requirements applying to different provisions of the General Agreement under Article XXX, two protocols were prepared: the Protocol Modifying Part II and Article XXVI of the General Agreement on Tariffs and Trade<sup>11</sup> and the Protocol Modifying Part I and Article XXIX of the General Agreement on Tariffs and Trade<sup>12</sup>.

The Third Session in 1949 agreed on amendments to the territorial application provisions of Article XXVI:4, effected through the Protocol Modifying Article XXVI of the General Agreement on Tariffs and Trade.<sup>13</sup> The Fifth Session in 1950 agreed to an amendment to Article XXVIII, done by a paragraph added to the Torquay Protocol.

In 1953 it was decided to convene a session of the CONTRACTING PARTIES in late 1954 to review the operation of the General Agreement and to examine possible amendments or supplements thereto, and possible modifications to arrangements for its administration. The Review Session of 28 October 1954 to 8 March 1955 resulted in agreement on a number of amendments to the text of the General Agreement, and on an Agreement on the Organization for Trade Cooperation (OTC). These amendments were incorporated in three instruments, only one of which - the Protocol Amending the Preamble and Parts II and III - entered into force.<sup>14</sup>

In 1965 the Protocol to Introduce a Part IV on Trade and Development was drawn up. It entered into force on 27 June 1966.

<sup>8</sup>Special Protocol Modifying Article XIV of the General Agreement on Tariffs and Trade, signed at Havana on 24 March 1948, entered into force 9 May 1949, 62 UNTS 40; Special Protocol Relating to Article XXIV of the General Agreement on Tariffs and Trade, signed at Havana 24 March 1948, entered into force 7 June 1948, 62 UNTS 56.

<sup>9</sup>Protocol Modifying Certain Provisions of the General Agreement on Tariffs and Trade, signed at Havana 24 March 1948, entered into force 24 March 1948, 62 UNTS 30. See further in section III under Articles XXV, XXXIII and XXXV.

<sup>10</sup>Report of the Working Party on "Modifications to the General Agreement", adopted 1 and 2 September 1948, GATT/CP.2/22/Rev.1, II/39, para. 3.

<sup>11</sup>Signed at Geneva 14 September 1948, entered into force 14 December 1948, 62 UNTS 80.

<sup>12</sup>Signed at Geneva 14 September 1948, entered into force 24 September 1952, 138 UNTS 334.

<sup>13</sup>Signed at Annecy 14 September 1948, entered into force 28 March 1950, 62 UNTS 113.

<sup>14</sup>As regards the other two instruments: the entry into force of the Protocol of Organizational Amendments was contingent upon the entry into force of the Agreement on the Organization for Trade Co-operation, done at Geneva on 10 March 1955, which never entered into force. The Protocol amending Part I and Articles XXIX and XXX failed to gain the required acceptance by all contracting parties. At their twenty-fourth session, the CONTRACTING PARTIES decided to abandon the Protocol if, by 31 December 1967, it had not entered into force. This condition having been fulfilled, the Protocol was abandoned; see 15S/65.

The text of the English language version of the General Agreement as it has been provisionally applied since entry into force of the Part IV Protocol can be found in *The Text of the General Agreement*, published by the Secretariat.<sup>15</sup>

On 1 January 1995 when the WTO Agreement entered into force, the GATT 1947 and the WTO entered a brief period of coexistence as separate organizations with overlapping membership. The length of this period of coexistence was determined on 8 December 1994, when the Preparatory Committee of the World Trade Organization, and the CONTRACTING PARTIES meeting in Special Session, each adopted a decision on "Transitional Co-existence of the GATT 1947 and the WTO Agreement". This decision provides, *inter alia*, that "The legal instruments through which the contracting parties apply the GATT 1947 are herewith terminated one year after the date of entry into force of the WTO Agreement. In the light of unforeseen circumstances, the CONTRACTING PARTIES may decide to postpone the date of termination by no more than one year".<sup>16</sup> With this termination, almost fifty years of provisional application of the General Agreement will come to an end.

## B. PUBLICATIONS COLLECTING THE PRACTICE OF THE CONTRACTING PARTIES

The principal widely-available source for documents on the GATT is the Basic Instruments and Selected Documents (BISD) series published since 1952 by the Secretariat.<sup>17</sup> Volume I of the BISD includes the text of the General Agreement (incorporating the first six protocols of amendment) and other instruments and procedures<sup>18</sup> and Volume II includes decisions, declarations, resolutions, rulings and reports of the first six sessions of the CONTRACTING PARTIES. Volume I (revised) of the BISD, published in 1955, included the text of the General Agreement incorporating all of the Review Session amendments, and the text of the Agreement on the Organization for Trade Cooperation. Volume III of the BISD, published in 1958, included the text of the General Agreement as in force in 1958. After the addition of Part IV, the text of the General Agreement as in force in 1969 was published as Volume IV of the BISD.<sup>19</sup> Volume IV also includes the text of the Protocol of Provisional Application and, in an Appendix, a guide to the legal sources of all the GATT provisions and the titles, effective dates and UN Treaty Series (UNTS) references of all the Protocols of amendment. The text contained in Volume IV has been republished by the Secretariat in a separate volume entitled *The Text of the General Agreement*.

The BISD series contains the texts of legal instruments drawn up by the CONTRACTING PARTIES or under their auspices, as well as decisions, resolutions, recommendations, reports, texts of protocols of accession and other relevant material. Supplements to the BISD have been published approximately annually since 1952. Since the Fourteenth Supplement, each Supplement has included a cumulative index to all material in the Supplements and Volume II.

The periodically-updated loose-leaf publication *Status of Legal Instruments* lists the legal instruments drawn up by the CONTRACTING PARTIES or under their auspices under various titles (Protocol, Agreement, Declaration, Procès-Verbal, Memorandum, Certification, Arrangement), together with details of dates of signature, of entry into force and of termination (where applicable), registration with the United Nations, parties to each instrument, and publications containing the text of the instrument concerned.<sup>20</sup>

<sup>15</sup>Sales No. GATT/1986-4. The English language text of the General Agreement is identical to the English language text in Volume IV of the Basic Instruments and Selected Documents, and is identical to the text which, with various other texts, is incorporated into the General Agreement on Tariffs and Trade 1994 ("GATT 1994"). The French and Spanish language texts published in Volume IV differ from the respective texts incorporated into GATT 1994, as the GATT 1994 texts in these languages include certain corrections and rectifications. See further under Article XXVI.

<sup>16</sup>PC/13, L/7583, adopted 8 December 1994, para. 3.

<sup>17</sup>For the earliest sessions of the GATT, the Secretariat issued compendia of the decisions of the CONTRACTING PARTIES and indexes listing the business that had been transacted at Sessions, with relevant document references. A number of compendia were issued in the CP/ series of intersessional documents, starting with CP/1 which lists the decisions of the First Session in 1948.

<sup>18</sup>Sales No. GATT/1952-3 (out of print). Earlier consolidated texts of the General Agreement were issued in the CP/ series.

<sup>19</sup>Sales No. 1969-1 (in print). BISD Volumes I(revised) and III are out of print. Volume IV included for the first time asterisks inserted into the text by the Secretariat for the convenience of the reader, marking the portions of the text which should be read in conjunction with the Notes and Supplementary Provisions in Annex I to the General Agreement. The asterisks have no independent legal status.

<sup>20</sup>GATT/LEG/1.1971, with updating supplements (loose-leaf, English and French).



When Volumes I and II of the BISD were published in 1952, the first edition of the Analytical Index was compiled and published in 1953. Later editions were prepared in 1959, 1966, 1970 and 1985.

The Summary Records of the sessions of the CONTRACTING PARTIES, the Minutes of the Council of Representatives, and most other documents issued by the GATT secretariat are not reproduced in the BISD for reasons of space. Instead they are published on microfiche. For the various document series, see the key to document symbols below.

#### IV. DOCUMENT REFERENCES

A key to the document symbols or short titles employed in this Index and in other GATT documents is given below. For information on how to obtain microfiche copies of these documents, see page 20 below. The list of negotiating documents reflects the holdings of the GATT Library in Geneva.

##### A. DRAFTING OF THE GENERAL AGREEMENT AND THE HAVANA CHARTER

While Preparatory Committee documents have the United Nations symbol "E/PC/T", throughout the history of the GATT and in this Index these documents have been referred to as "EPCT".

##### 1. First Session of the Preparatory Committee of the United Nations Conference on Trade and Employment (London, October-November 1946)

EPCT/1-33	Plenary documents including summary records and committee reports
EPCT/33	<b>Final Report of the First Session ("London Report")</b>
EPCT/INF/1-8	Information documents
EPCT/INF/9	Cumulative list of First Session documents
EPCT/PV/1-6	Plenary session verbatim reports
EPCT/DEL/1-17	Chairman's Committee (heads of delegations) papers and summary records
EPCT/EC/1-5, Corr.1	Executive Committee, summary records
EPCT/C.I/1-18	Committee I (Employment) papers and summary records
EPCT/C.I/PV/1-4	Committee I verbatim reports
EPCT/C.I&II/1-24	Joint session of Committees I & II (Industrial development)
EPCT/C.I&II/PV/1-4	Committees I and II, verbatim reports
EPCT/C.I&II/D/PV/7	Committees I and II, Drafting Sub-Committee, verbatim report
EPCT/C.II/1-66	Committee II (General commercial policy) papers and summary records
EPCT/C.II/PV/1-13	Committee II verbatim reports
EPCT/C.II/W/2-31	Committee II working papers including summary records of Technical Sub-Committee and Sub-Committee on Procedures
EPCT/C.II/PRO/PV/5-15	Committee II, Sub-Committee on Procedures, verbatim reports
EPCT/C.II/ST/PV/1-6	Committee II, Sub-Committee on State-Trading, verbatim reports
EPCT/C.II/QR/PV/1-6	Committee II, Sub-Committee on Quantitative Restrictions and Exchange Control, verbatim reports
EPCT/C.II&IV/PP/PV/1-2	Committees II and IV, Joint Drafting Sub-Committee on Subsidies on Primary Products, verbatim reports
EPCT/C.III/1-19	Committee III (Restrictive business practices) papers and summary records
EPCT/C.III/PV/1-9	Committee III verbatim reports
EPCT/C.IV/1-20	Committee IV (Commodity agreements) papers and summary records
EPCT/C.IV/PV/1-9	Committee IV verbatim reports
EPCT/C.V/1-35	Committee V (Administration and organization) papers and summary records
EPCT/C.V/PV/1-15	Committee V verbatim reports

##### 2. Drafting Committee of the Preparatory Committee of the United Nations Conference on Trade and Employment (New York, January-February 1947)

EPCT/34	<b>Report of the Drafting Committee ("New York Report")</b>
EPCT/C.6/1-108	Committee documents and summary records of Plenary and Sub-Committees
EPCT/C.6/107	Cumulative list of documents
EPCT/C.6/108	Index of Drafting Committee documents
EPCT/C.6/W/1-87	Working papers

### 3. Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment (Geneva, April-October 1947)

EPCT/35-267	Plenary documents
EPCT/186	<b>Report of the Second Session ("Geneva Report")</b>
EPCT/INF/10-330	Information documents (periodic document lists in EPCT/INF/53, 92, 134, 193, 240, 285, 330)
EPCT/INF/331	Index of Second Session documents
EPCT/W/23-344	Plenary working papers
EPCT/EC/SR.2/1-22	Executive Committee, summary records
EPCT/EC/PV.2/1-21	Executive Committee, verbatim reports
EPCT/DEL/18-75	Chairman's Committee (heads of delegations) papers and summary records
EPCT/DEL/INF/1-6	Chairman's Committee document lists
EPCT/S/1-12	"Secret" documents relating to work plan and reports of Tariff Negotiations Working Party
EPCT/TRF/1-155	Tariff negotiation documents
EPCT/TAC/SR/1-18	Tariff Agreement Committee, summary records
EPCT/TAC/PV/1-28	Tariff Agreement Committee, verbatim reports
EPCT/A/SR/1-43	Commission A (chapters on employment, economic development, and general commercial policy except for Articles relating to subsidies), summary records
	Commission A, verbatim reports
EPCT/A/PV/1-43	Commission B (chapters on purposes, organization, restrictive business practices, commodity agreements and Articles on subsidies), summary records
EPCT/B/SR/1-33	Commission B, verbatim reports
EPCT/B/PV/1-33	Working Party on Technical Articles, summary records
EPCT/WP.1/SR.1-11	Working Party on Technical Articles, Ad-Hoc Sub-Committee, summary records
EPCT/WP.1/AC/SR.1-3	

### 4. United Nations Conference on Trade and Employment (Havana, November 1947 to March 1948)

Note: an asterisk\* indicates the existence of other un-numbered informal conference "white papers" of the Sub-Committee concerned.

E/CONF.2/1-78	Plenary documents
E/CONF.2/78	Report of the Conference (Final Act and related documents; also published as ICITO/4)
E/CONF.2/SR/1-21	Plenary Summary Records
E/CONF.2/W/1-15	Plenary working papers
E/CONF.2/INF/37, 69, 89, 110, 131, 152, 172, 206	Periodic lists of documents
E/CONF.2/INF/1-206	Information documents
E/CONF.2/BUR/1-39	General Committee (conference management)
E/CONF.2/BUR/W/1	General Committee working paper
E/CONF.2/BUR/SR/1-12	General Committee summary records
E/CONF.2/CO/	Co-ordination Committee informal conference documents
E/CONF.2/C.1/1-26	<b>Committee I (Employment and economic activity), Chapter II</b>
E/CONF.2/C.1/SR/1-13	Committee I summary records
E/CONF.2/C.1/A/W/1*	Committee I, Sub-Committee A (Fair labour standards) report
E/CONF.2/C.1/B*	Committee I, Sub-Committee B (Other articles of Chapter II) informal documents
E/CONF.2/C.1/C/1-4	Committee I, Sub-Committee C (Resolution on employment)
E/CONF.2/C.1/C/W/1-11*	Committee I, Sub-Committee C working papers
E/CONF.2/C.2/1-50	<b>Committee II (Economic development), Chapter III</b>
E/CONF.2/C.2/A/1-3	Committee II, Sub-Committee A (Article 8)
E/CONF.2/C.2/B/1-6	Committee II, Sub-Committee B (Article 12)
E/CONF.2/C.2/B/W/1-14	Committee II, Sub-Committee B working papers
E/CONF.2/C.2/C/1-3	Committee II, Sub-Committee C (Articles 13 and 14)
E/CONF.2/C.2/C/W/1-16	Committee II, Sub-Committee C working papers
E/CONF.2/C.2/D/1-3	Committee II, Sub-Committee D (footnote to Chapter III on reconstruction)
E/CONF.2/C.2/D/W/1-3	Committee II, Sub-Committee D working papers
E/CONF.2/C.2&3/A/1-15	Joint Sub-Committee on Tariff Preferences
E/CONF.2/C.2&3/A/W/1-3	Joint Sub-Committee on Tariff Preferences working papers
E/CONF.2/C.2&6/A/1-24	Joint Sub-Committee on Articles 9, 10 and 11
E/CONF.2/C.2&6/A/W/1-33	Joint Sub-Committee on Articles 9, 10 and 11 working papers
E/CONF.2/C.3/1-88	<b>Committee III (Commercial policy), Chapter IV</b>
E/CONF.2/C.3/SR/1-48	Committee III summary records
E/CONF.2/C.3/A/	Committee III, Sub-Committee on Articles 16, 17, 18 and 19
E/CONF.2/C.3/A/W/1-55*	Committee III, Sub-Committee A working papers
E/CONF.2/C.3/B/	Committee III, Sub-Committee on proposed new Article 18A
E/CONF.2/C.3/B/W/1-7	Committee III, Sub-Committee B working papers
E/CONF.2/C.3/B/	Committee III, Sub-Committee on Articles 32-39
E/CONF.2/C.3/C/W/1-20*	Committee III, Sub-Committee C working papers
E/CONF.2/C.3/D/	Committee III, Sub-Committee D on Articles 40, 41 and 43



E/CONF.2/C.3/D/W/1-13	Committee III, Sub-Committee D working papers
E/CONF.2/C.3/E/	Committee III, Sub-Committee E on Articles 20 and 22
E/CONF.2/C.3/E/W/1-23	Committee III, Sub-Committee E working papers
E/CONF.2/C.3/F/	Committee III, Sub-Committee F on Articles 21, 23 and 24
E/CONF.2/C.3/F/W/1-32	Committee III, Sub-Committee F working papers
E/CONF.2/C.3/G/	Committee III, Sub-Committee G on the Swiss Proposal
E/CONF.2/C.3/G/W/1-13	Committee III, Sub-Committee G working papers
E/CONF.2/C.3/H/	Committee III, Sub-Committee H on Articles 25-29
E/CONF.2/C.3/H/W/1-9	Committee III, Sub-Committee H working papers
E/CONF.2/C.3/J/	Committee III, Sub-Committee J on Articles 30 and 31
E/CONF.2/C.3/J/W/1-8*	Committee III, Sub-Committee J working papers
E/CONF.2/C.4/1-25	<b>Committee IV (Restrictive business practices), Chapter V</b>
E/CONF.2/C.4/SR/1-25	Committee IV summary records
E/CONF.2/C.4/A/1-21	Committee IV Sub-Committee on amendments to Chapter V
E/CONF.2/C.4/A/W/1-9*	Committee IV Sub-Committee working papers
E/CONF.2/C.5/1-19	<b>Committee V (Inter-governmental commodity agreements), Chapter VI</b>
E/CONF.2/C.5/SR/1-15	Committee V summary records
E/CONF.2/C.5/W/1-6	Committee V working papers
E/CONF.2/C.5/A/1-2	Committee V, Sub-Committee on amendments to Chapter VI
E/CONF.2/C.5&6	Joint Sub-Committee on national security exception for commodity agreements; informal conference documents only
E/CONF.2/C.6/1-112	<b>Committee VI (Organization), Chapters I, VII, VIII, IX</b>
E/CONF.2/C.6/SR/1-41	Committee VI summary records
E/CONF.2/C.6/W/1-126	Committee VI working papers
E/CONF.2/C.7/1-2	<b>Committee VII (Credentials)</b>
E/CONF.2/C.8/1-28	<b>Committee VIII (Central Drafting Committee)</b>

See also:

ICITO/I/8                      **Reports of Committees and principal Sub-Committees ("Havana Reports")**

## B. INTERIM COMMISSION FOR THE ITO

(meetings held in 1948, 1949, 1950, 1968, 1980, 1993 and 1994)

ICITO/I/1-39	Documents and summary records
ICITO/INF/8	Cumulative list of documents
ICITO/INF/1-8	Information papers
ICITO/I/SR.1	Summary Record of first meeting of ICITO
ICITO/I/W.1-4	Working papers
ICITO/EC.1/1-6	Executive Committee, First Session, documents
ICITO/EC.1/SR.1-2	Executive Committee, First Session, Summary Records
ICITO/EC.2/1-21	Executive Committee, Second Session, documents
ICITO/EC.2/SR.1-16	Executive Committee, Second Session, Summary Records
ICITO/EC.2/W.1-2	Executive Committee, Second Session, Working Papers
ICITO/EC.2/OD.1-18	Executive Committee, Second Session, Orders of the Day
ICITO/EC.2/SC.1/1-11	Executive Committee, Second Session, Sub-Committee on World Court
ICITO/EC.2/SC.2/1-2	Executive Committee, Second Session, Sub-Committee on Economic Development
ICITO/EC.2/SC.3/1-9	Executive Committee, Second Session, Sub-Committee on Administration

## C. GATT DOCUMENTS

### 1. CONTRACTING PARTIES

#### Basic Instruments and Selected Documents

	Sessions	Dates	Symbol
Volume I: Text in force 1952, with text of other instruments and procedures			I/
Volume I revised: Text incorporating 1955 amendments, with text of Agreement on the Organization for Trade Cooperation			I (Rev.)
Volume II: Decisions, Declarations, Rulings and Reports	1-6	Feb. 1948 - Dec. 1951	II/