

UNITED STATES TARIFF COMMISSION

**THE DEVELOPMENT OF A UNIFORM INTERNATIONAL
TARIFF NOMENCLATURE**

**From 1853 to 1967
With Emphasis on the Brussels Tariff Nomenclature**



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Introduction

The newly developed Brussels Tariff Nomenclature (BTN) 1/ is but the most recent product of a series of efforts to derive a uniform international tariff nomenclature--efforts that span over a century in time. To examine the sources and results of these endeavors and to observe their culmination in the BTN is this study's principal purpose.

A customs tariff typically consists of a systematized nomenclature of product descriptions arranged in schedules, together with the various applicable rates of duty. The nomenclature describes and enumerates the various imported commodities to facilitate the identification of their dutiable status. It is essentially a commodity classification, wherein each imported article may be properly located.

Tariff nomenclatures.--The subject of tariff nomenclatures--together with a treatment of their function and structure--has generally been neglected by writers on tariff theory and policy. Appropriately, such authors have analyzed either hypothetical or real tariff laws, which specify the duties chargeable on various imported goods. Their analyses, however, have usually proceeded on the assumption that the particular systems by which the goods are named and arranged in the laws are explicit. Ample

1/ The Brussels Nomenclature for the Classification of Goods in Customs Tariffs was last revised and published in 1965.

attention has been paid to what one may term the "classification" function--that of identifying imported goods in the proper duty class (e.g., "animals and their products, 20 percent ad valorem"). Little thought--except by customs experts--however, has been given to the more underlying task of naming the goods and arranging the categories so selected according to a systematic and workable scheme (i.e., classification and nomenclature).

To ignore the system by which goods are named and arranged in a tariff schedule does not make the need for adequate identification less important. A nomenclature tells the inquirer where he can find the rate of duty applicable to the commodity in which he is interested. By grouping related commodities together, it facilitates the legislative process; the extent to which the duty imposed is successful in protecting a particular industry depends materially on how adequately the commodity in question is identified.

The tariff nomenclatures of individual countries have varied materially in both logic and layout. Goods may be named and arranged according to a variety of principles. A "material origin" basis of identification links together goods derived from the same physical substance. Naming according to "actual content" is not the same thing, for goods of the same physical origin may have their content altered in the process of manufacture. Other bases are "use" or "purpose" and "stage of

manufacture or degree of finish." Often these principles are used in various combinations in given nomenclatures.

In view of the limited volume of writing on the subject of tariff nomenclatures per se, it is not surprising to find that even less has been written on their historical background, which constitutes the main area of interest in this study. More specifically, this study surveys the major international efforts during past decades to derive a tariff nomenclature suitable for adoption by all nations as a uniform framework for their respective tariff laws. The need for a uniform tariff nomenclature was long ago recognized. The seriousness of the problem of disparate tariff nomenclatures throughout the international trading community was especially well put by those who formulated the 1931 international tariff nomenclature: 1/

Even the definitions of products frequently differ It is not surprising, therefore, that the consultation of the tariffs should lead to perpetual misunderstanding and uncertainty, that their application frequently involves disputes between customs authorities and traders, and that those who desire to compare the duty payable on the same commodity in different countries are often totally unable to obtain satisfactory results.

Since then, various international efforts have culminated in that present-day magnum opus, the Brussels Tariff Nomenclature (BTN). It affords a common framework for the world's tariff schedules. It consists of 1,097 headings, arranged in 99

1/ League of Nations, Draft Customs Nomenclature (1931), Geneva, 1931, p. 5.

chapters, which, in turn, are grouped in 21 sections. The entire list of headings is preceded by the General Rules for the Interpretation of the Nomenclature; most sections and chapters are preceded by legal notes. Supplemental to the BTN are the explanatory notes and the alphabetical indices to both the Nomenclature and the explanatory notes. The BTN has been adopted by several score of nations and by various regional economic associations.

Statistical nomenclatures.--A tariff nomenclature such as the BTN should not be confused with a statistical nomenclature designed for use in compiling international trade statistics. 1/ The latter consists, or more correctly should consist, of a systematic naming for statistical purposes of those goods entering into a nation's foreign trade. A tariff nomenclature, on the other hand, seeks to allow importers and exporters "to find in one place the items which interest them and to see at a glance the relation between the duties on their various products." 2/ A statistical nomenclature, however, may appropriately contain headings (e.g., subdivisions of an important raw material export) that are irrelevant to the process of administering a tariff law.

1/ Unless otherwise stated, the term "statistical nomenclature," as it is used in this study, refers to a statistical nomenclature for international trade.

2/ European Customs Union Study Group, Reports Submitted to the Customs Committee, Brussels, 1950, p. 18.

At times a common nomenclature has been used for both statistical and tariff purposes. For example, the 1913 Brussels Nomenclature--a statistical nomenclature--was once used as the basis for the tariff nomenclatures of several Latin American nations. 1/ Conversely, some nations have based their statistical nomenclatures on their tariff nomenclatures. 2/

Increasingly in recent decades recognition has been given to the essential relationship between a country's tariff nomenclature and its statistical nomenclature. Recently the Secretariat of the Customs Cooperation Council epitomized this interdependence of the two types of nomenclatures as follows:

In most countries, the primary data used for the preparation of international trade statistics are taken from Customs import or export documents, and are therefore based on the national tariff classification system. It was therefore found essential, in order to secure international uniformity at both Customs and statistical level, to establish the closest possible correlation between the basic statistical and tariff classification systems. 3/

The accuracy of statistics depends materially, of course, on the accuracy of the identification of the merchandise

1/ See below, p. 16.

2/ Writing in 1945, Santiago Woscoboinik cited in this connection the following nations: Bolivia, Chile, Cuba (imports), Ecuador, El Salvador, Guatemala, Honduras (imports), Mexico, Panama, Paraguay, Peru, Uruguay, and Venezuela. See Inter-American Statistical Institute, Convertibility Index for Foreign Trade Statistical Classifications of the American Nations, Washington, 1945, p. xiii.

3/ Customs Cooperation Council, The Brussels Nomenclature, Its Origins, Characteristic Features, and Field of Application, Brussels, 1967.

involved--whatever the nomenclature employed. Customs officers regularly interpret tariff nomenclatures to arrive at proper duty assessments. Whenever differing rates of import duty are involved, therefore, importers and customs officials complement one another in assuring that merchandise is properly classified. Since the payment of import duties is involved, classification is unlikely to be casual or unchallenged. To the extent, therefore, that individual customs classifications and statistical classifications are either coextensive or compatible with one another, they contribute to the collection of reliable statistical data. A statistical nomenclature may differ from a tariff nomenclature in the arrangement or presentation of its product classes or descriptions and the individual product descriptions may vary in scope. In order that the statistics be as accurate as possible and to assure that they afford a means of appraising the impact of import duties on trade, however, variations between the nomenclatures should be susceptible of reconciliation by appropriate grouping, or subdivision, of individual product descriptions.

Although the United States has not adopted the BTN, the newly revised Tariff Schedules of the United States (TSUS), which became effective August 31, 1963, were significantly influenced thereby. The basic format of the TSUS was established with a view to the various 5-digit legal tariff classifications

becoming the control mechanism for statistical reporting, such items to be subdivided, where necessary, into subordinate 7-digit statistical classes. 1/

Antecedents of the Brussels
Nomenclature of 1913

The Brussels Nomenclature of 1913 seems to have been the earliest uniform statistical nomenclature to have been approved by international convention. Two considerations necessitate a discussion of it in a study devoted primarily to tariff nomenclatures. The first has already been alluded to--its use as the basis for several national tariff nomenclatures. The second consideration is the fact that its basic logic and layout provide a prototype for the first widely-accepted uniform international tariff nomenclature--i.e., the Draft Customs Nomenclature of 1931, prepared under the auspices of the League of Nations. The antecedents of the 1913 nomenclature are discussed in this section. The 1913 nomenclature itself is treated in the following section.

National efforts.--The 1913 Brussels Nomenclature has at least two important antecedents in the sphere of national nomenclatures; one, a statistical nomenclature (1831) and the other, a tariff nomenclature (1882). Between 1831 and 1854 Belgium

1/ See pp. 22 and 23, Submitting Report to the Tariff Classification Study, U.S. Tariff Commission, 1960.

presented its foreign trade statistics: 1/

. . . under three general headings: raw material, produce, and manufactured articles; under the heading of produce was designated products delivered for consumption in their natural state. This classification was abandoned in 1854, the merchandise being from that date enumerated . . . in alphabetical order.

The nomenclature employed by Austria-Hungary in its tariff of May 25, 1882, embodied a classification scheme similar to that employed later by both the Brussels Nomenclature of 1913 and the League of Nations Draft Customs Nomenclature of 1931. A discussion of the interrelationships among the three nomenclatures is postponed until the League Nomenclature is taken up in detail. 2/

International efforts.--The history of international efforts to derive a uniform statistical nomenclature commences with the work of various economic congresses, which were convened between 1853 and 1908. The earliest among these were several of the nine International Statistical Congresses, which met between 1853 and 1876. 3/ The First, which convened at Brussels in 1853, favored a uniform international tariff nomenclature as a prerequisite to a statistical one. In addition, the 1853 Congress (and later several pre-1913 international congresses) held the view

1/ John Koren, ed., The History of Statistics, Their Development and Progress in Many Countries, New York, 1918, pp. 143-4.

2/ See below, p. 17 et seq.

3/ See Edouard Neron, "Vers une nomenclature douaniere internationale," p. 199. Also Congres International du Commerce et de l'Industrie, Rapports, Discussions, Travaux et Resolutions du Congres, p. 61.

that because the statistical nomenclatures employed by most nations were modeled closely after their tariff nomenclatures, changes in one implied similar changes in the other. The Seventh Congress (the Hague in 1869), the Eighth (St. Petersburg in 1872), and the Ninth (Budapest in 1876) paid close attention to proposals for a uniform statistical nomenclature. To carry on the work of the International Statistical Congresses, the International Institute of Statistics was founded in 1885. ^{1/} The Institute gave consideration to the development of a statistical nomenclature at various of its biennial meetings. Examples were the meetings in Rome 1887 and in Paris in 1889.

Also in Paris in 1889 the International Commercial Congress was convened. ^{2/} One of the questions before it was:

Would it not be in the interest of all nations to adopt in their customs tariffs and in their official statistics comparable classifications and uniform vocabularies?

One set of resolutions evinced despair of achieving perfect international uniformity in (statistical and tariff) nomenclature. Nevertheless, the Congress expressed the hope that comparable classifications and uniform vocabularies would be adopted in both customs tariffs and official statistics and

^{1/} The other congresses were held in Paris (1855), Vienna (1857), London (1860), Berlin (1863), and Florence (1867). In 1913 the permanent Office of the International Institute of Statistics was established at the Hague, its present home.

^{2/} *Congres International du Commerce et de l'Industrie*, op.cit., pp. 61-4 and 339.

that a glossary of terms employed in such publications would be prepared in virtually all languages. In a more optimistic resolution, the Congress proposed that the various national chambers of commerce prepare an international nomenclature and a customs glossary.

In 1900 Paris was the site of still a third meeting, that of the First International Customs Regulation Congress. It resolved that an international agreement should be negotiated to: 1/

. . . establish outside the special statistics of each land a common nomenclature, wherein the principal products of the same types imported into each land for consumption would be grouped in a limited number of uniformly-worded categories, under the dual headings of price and value.

In 1905 the International Conference on World Economic Expansion was convened at Mons (Belgium). The conferees indicated that they favored an "international entente . . . for the establishment of customs statistics in all lands according to a uniform classification of products." 2/ Moreover, the Mons Conference entrusted Belgium with initiating the necessary steps for carrying out its proposal of establishing a uniform

1/ Deuxieme Congres International de la Reglementation Douaniere, Rapports-Documents et Pieces Annexes, p. 216. Translated from the French.

2/ Congres International d'Expansion Economique Mondiale, Documents Preliminaires et Compte Rendu des Seances, p. 129. Translated from the French.

statistical classification. 1/ Presumably as a result of the Conference's instructions, the principle of systematic grouping, previously noted as being employed in (Belgian) foreign trade statistics between 1831 and 1854, was revived in 1907. In 1908 a statistical summary was published, wherein merchandise was presented under four classes: (1) live animals; (2) beverages and foods; (3) raw or simply-prepared materials; and (4) manufactured products. 2/ These four class headings are one and the same as the four major groups of the 1913 Brussels Nomenclature.

The Second International Congress of Chambers of Commerce, which met at Milan in 1906, adopted a resolution identical to that of 1905 and added that the respective members (chambers of commerce), the associated commercial and industrial associations, and the permanent committee of the Congress should: 3/

. . . study for the next Congress (1) a method of grouping in general summaries merchandise imported and exported directly or in transit from the point of view of their type or of their use and (2) an international customs vocabulary.

In connection with Item 2, the Third International Congress of Chambers of Commerce (Prague, 1908) sought "an international entente for the establishment of customs tariffs in all lands, according to a uniform product classification." 4/

1/ Deuxieme Congres International des Chambres de Commerce, op cit., pp. 129 and 135.

2/ Koren, loc. cit.

3/ Deuxieme Congres International des Chambres de Commerce, Compte Rendu Stenographique des Seances, p. 137. Translated from the French.

4/ Neron, op. cit., p. 200. Translated from the French.

As early as 1889 the First International Conference of American States, meeting in Washington, gave consideration to what was crudely termed "nomenclature"; it recommended: 1/

. . . the adoption of a common nomenclature which shall designate in alphabetical order in equivalent terms, in English, Portuguese, and Spanish, the commodities on which import duties are levied, to be used respectively by all the American nations for the purpose of levying customs imports which are or may hereafter be established

Such a listing of commodities in alphabetical order, with no underlying principles to determine how the items were to be named, hardly qualifies as a "nomenclature." The Second Conference, held at Mexico City in 1901, however, acted upon the recommendation. That Conference resolved that a Customs Congress should be convened to establish, inter alia, the crude "nomenclature" just described. The resolution specified, however, that, in addition to serving as a uniform framework for tariff laws, the "nomenclature," with some modifications, should "become the basis for the statistical data of imports and exports." 2/

1/ James Brown Scott, ed., The International Conferences of American States, 1889-1928, p. 11.

2/ Ibid., p. 66.

Whatever the progress made by the Customs Congress, which met for one week in 1903, the Fifth Conference, convened at Santiago in 1923, recognized the superiority of the Brussels Nomenclature of 1913. The contracting parties to a convention agreed to employ the latter in their foreign trade statistics. See ibid., p. 233.

In 1945 only four of the signatories (Dominican Republic [exports], Guatemala, El Salvador, Uruguay) used either the Brussels Nomenclature of 1913 and/or the League of Nations Minimum List of Commodities for International Trade Statistics for their statistical nomenclatures. See Inter-American Statistical Institute, loc. cit.

The Brussels Nomenclature of 1913

With an aim similar to that of the above-mentioned international congresses--i.e., to improve the comparability of world trade statistics--representatives of 33 nations assembled in Brussels in 1913 at the Second International Conference on Commercial Statistics. 1/ There, 29 countries approved by convention a uniform statistical nomenclature, which had been formulated earlier and presented to the first such conference in 1910. 2/

Essential features of the 1913 Brussels.--As noted, the Brussels Nomenclature of 1913 is a statistical nomenclature; it consists of 186 items, arranged in five groups--live animals, foods and beverages, raw or simply prepared materials, manufactured products, and gold and silver. The five groups contain 7, 42, 49, 84, and 4 items, respectively. The second group, foods and beverages, lists 12 food products derived from the animal kingdom, 25 food products derived from the vegetable kingdom, and five beverages.

1/ See Conference Internationale de Statistique Commerciale, Documents et Proces-Verbaux.

2/ The signatories to the Convention Concerning the Establishment of International Commercial Statistics of December 31, 1913, were: Belgium, Bolivia, Chile, Colombia, Cuba, Denmark, Dominican Republic, France, Germany, Great Britain, Guatemala, Haiti, Honduras, Italy, Japan, Mexico, the Netherlands Indies, Nicaragua, Norway, Paraguay, Peru, Persia, Portugal, Russia, Siam, Spain, Sweden, Switzerland, and Uruguay.

Classification by a progression from raw material to finished product is the underlying logic for grouping the next 133 items.

The third group, Raw or simply-prepared materials, comprises five animal, 14 vegetable, 23 mineral, and seven textile items. Examples from the respective subgroups 1/ are raw skins and ivory; natural flowers, rubber, tobacco, and items of wood; common metals, precious stones, and cement; and wool, cotton, and flax and linen.

The fourth group, Manufactured products, includes the following subgroups: seven chemical products, two cigar and cigarette items, five animal skin items, 19 textile products, and seven wood products. For the most part, the sequence of the items progresses from the simpler to the more complex. Thus, only later are machinery and apparatus, transport material, and musical instruments specified.

Nations employing the 1913 Brussels.--How and to what extent did nations use the Brussels Nomenclature of 1913? The nomenclature did serve as the basis for the first compilation of commercial statistics by the International Bureau of Commercial Statistics in 1922. 2/ Moreover, an examination of world

1/ These subgroups are categories identified by the author after careful examination of the group; the nomenclature itself specifies no divisions other than the 5 groups.

2/ Edgard Allix, Les Droits de Douane, p. 217.

customs tariffs effective in 1925 reveals that some 30 nations employed tariff nomenclatures that strongly resembled, in both logic and layout, the 1913 Brussels Nomenclature. ^{1/} These nations, of course, need not have based their tariff nomenclatures directly on the 1913 Brussels but may have modeled them after those of other nations. The latter, in turn, may have based their tariffs on some national nomenclature antecedent to the 1913 Brussels, such as the aforementioned Austro-Hungarian tariff. By 1920, however, Bolivia definitely based its tariff nomenclature on the 1913 Brussels. ^{2/} Between 1934 and 1941, Panama, Guatemala, and Ecuador did likewise. ^{3/}

Thus, during the first decade and a half after 1913, the 1913 Brussels Nomenclature, designed and used as a statistical nomenclature, was also used, directly or indirectly, for tariff purposes. Nations had generally derived their statistical nomenclatures from their tariff nomenclatures; to modify one was to modify the other--this view remained dominant. Not until the work of the League of Nations, in the late 1920's and early 1930's, was a major international effort made to develop

^{1/} These were: Austria, Belgium, Bolivia, Brazil, British India, Bulgaria, Chile, Czechoslovakia, Dominion of Canada, Dominion of New Zealand, Esthonia, Finland, France, Germany, Greece, Hungary, Italy, Japan, Latvia, Lithuania, Mexico, Poland, Portugal, Roumania, Russia, Sweden, Switzerland, Turkey, Venezuela, and Yugoslavia. See Kelly's Customs Tariffs of the World (1925).

^{2/} Inter-American Statistical Institute, loc. cit.

^{3/} Ibid.

concurrently separate statistical and tariff nomenclatures, each to be employed for the distinct purposes for which it was designed. 1/ At long last, distinctions between the two were to be stressed, as much as their interrelationships.

Aside from bringing forth the 1913 Brussels Nomenclature, an important achievement of the Second International Conference on Commercial Statistics was the founding of the International Bureau of Commercial Statistics. The Bureau was to become the repository of economic data submitted by the signatories, in conformity with the agreed-upon nomenclature. 2/

The League of Nations Draft Customs Nomenclature

The immediate origins of the League of Nations Draft Customs Nomenclature, the earliest widely-accepted uniform international tariff nomenclature, are easy to trace. They begin with the World Economic Conference, held at Geneva in May 1927. The Conference expressed the following view: 3/

. . . a fixed nomenclature for goods subject to customs duties is an essential condition of equity in their application and ease in their collection
 . . . it may also contribute to the exchange of goods not subject to duty

. . . the Council of the League of Nations should take the initiative in drawing up an appropriate

1/ See below, pp. 18 and 34.

2/ G. B. Roorbach, editor, The International Trade Situation, p. 157.

3/ League of Nations, The World Economic Conference: Final Report, pp. 23-4.

procedure for establishing, in liaison with the producing and commercial organization concerned, a systematic customs nomenclature in accordance with a general plan covering all classes of goods.

Apparently, it was the Conference's intention that such a tariff nomenclature should be separate and distinct from the 1913 Brussels statistical nomenclature. After referring to 1913 developments, the Conference recommended that the convention establishing the International Bureau of Commercial Statistics be implemented to the fullest extent possible. 1/ Thus, it envisioned that the use of the 1913 nomenclature should be limited to statistical purposes.

An important precursor of the 1927 recommendation is found in a convention, relating to customs regulations regarding silk products, signed by France and Italy in 1923. 2/ This convention marked one of the few instances, up to that date, in which two parties to an international agreement agreed to adopt a uniform customs nomenclature--though limited in this instance to silk products--in order to cope with various economic and technical problems arising from differences in nomenclature. Mr. Etienne Fougere, President of the International Silk Federation and an ardent proponent of a uniform international tariff nomenclature, had been the moving force behind this agreement.

In responding to the 1927 recommendation, the League of Nations referred the problem to its Economic Committee. In

1/ Ibid., p. 23.

2/ See Neron, op. cit., p. 200.

July 1927 the latter instructed the secretariat to convene a meeting of five experts to consider principles for drawing up a uniform tariff nomenclature. These five became known as the Sub-Committee of Experts for the Unification of Customs Nomenclature. 1/ The Sub-Committee considered its *raison d'être* to be the introduction of order, clearness, and, above all, simplicity and uniformity into the customs nomenclature. 2/ Existing tariff nomenclatures were deemed to be complex and diverse for two reasons: 3/

. . . on the one hand, the particular economic structure of each country, which must naturally be reflected in its tariff; on the other hand, the diversity of the formal and systematic criteria on the basis of which products are arranged in categories and items.

Complexity and diversity in existing tariff nomenclatures.--

Problems associated with the first of these reasons had been accentuated by the trend after the 1870's toward increasing complexity in national economic structures. The increased pace of technological change in the developed nations and its concomitants--new processes, new articles, and new uses and adaptations of old articles--contributed to this complexity. All these--and the uneven diffusion of technological change throughout the

1/ They were Roger Fighiera of France (Chairman), Magnette of Belgium, Fafi of Czechoslovakia, H. Flach of Germany, and G. Paci of Italy. Between March and June 1928, F. Ferenczi of Hungary and Comte of Switzerland joined the Sub-Committee.

2/ League of Nations, Draft Customs Nomenclature (1931), loc. cit.

3/ Ibid.

world--had given rise to the need for more detailed and more up-to-date national tariff nomenclatures "in order to prevent actual discriminations." 1/ Such increased detail and diversity had imposed extra demands for technical knowledge on the part of customs officials, had created greater complexity and required more time in customs inspection, and had made it more expensive to carry on international trade. Less obvious costs had been barriers to the rationalization of production; manufacturers had had to adapt their businesses to the complex provisions of the different tariff laws. 2/ Moreover, failure to meet the requirements of the new technology--i.e., by retaining an old nomenclature in the face of a changing economic structure--had affected the tariff user about as adversely as had the burden of excessive detail.

Nations had also had increased resort to detailed tariff nomenclatures in order to impose selective import restrictions; increased protectionism had also been a trend in the international economy after the 1870's. 3/ In particular, greater detail had permitted nations to limit the effects of concessions granted to a given country when they had most-favored-nation treaties with other countries. 4/ The Sub-Committee of Experts

1/ Lawrence W. Towle, International Trade and Commercial Policy, p. 257.

2/ Ibid., p. 260.

3/ Towle, op. cit., p. 256. Also Allix, op. cit., p. 212.

4/ Towle, op. cit., p. 259.

spoke out against such nationalistic action: 1/

Nomenclatures are not made for the exclusive use of the country drawing them up; they must also serve all those who effect exchanges or maintain commercial relations with that country. They must not be drawn up with the sole object of . . . constituting a means of defense for its industries. Like trade itself they must be international If countries wish to extend and develop their trade . . . they must agree among themselves to speak in clear language, and their trade requirements must not be hindered by the unnecessary complexity and insidious traps of customs nomenclature.

The Sub-Committee achieved its objectives of simplicity and uniformity in the tariff nomenclature that it drew up--the League of Nations Draft Customs Nomenclature of 1931 (hereafter to be termed "the League Nomenclature"). 2/ It did so by designing a nomenclature to cope with the two principal causes of complexity and diversity in the then existing tariff nomenclatures--i.e., diversity of criteria by which commodities were named and diversity in the economic structures of the many countries.

Essential features of the League Nomenclature.--The League Nomenclature consists of 991 Items, which are arranged in 86 Chapters; the Chapters, in turn, are grouped in 21 Sections. In the broadest sense, three commodity groupings constitute the

1/ League of Nations, Draft Framework, p. 12.

2/ "The League Nomenclature" was the most common name used to identify it until the first Brussels Tariff Nomenclature was drafted in 1948. Thereafter, it was frequently identified as "the Geneva Nomenclature."

underlying logic of the 21 sectional divisions. 1/

The first grouping, embracing "the main products of the animal, vegetable and mineral kingdoms," comprises 3 Sections of products in their natural state: Live animals and products of the animal kingdom (Section 1), Products of the vegetable kingdom (Section 2), and Mineral products (Section 5). It also includes 2 Sections of products in a prepared state: Fatty substances, oils, and products of their decomposition; prepared alimentary fats; and waxes of animal or vegetable origin (Section 3) and Products of the food-preparing industries; beverages, alcoholic liquors, and vinegar; and tobacco (Section 4).

The second grouping, embraces the products of "industries transforming the principal natural raw materials and most important mineral products," (Sections 6 through 15). First among these are: Chemical and pharmaceutical products; colors and varnishes; perfumery; soap; candles; glues and gelatins; explosives; and fertilizers (Section 6). Next come various products resulting from the transformation of raw materials of the animal kingdom: Hides, skins, leather, fur skins, and manufactures of these materials (Section 7). Also in this grouping are five Sections of products resulting from the transformation of vegetable raw materials: Rubber and articles made of rubber (Section 8), Wood and cork and wares of these materials and goods made of plaiting materials (Section 9), Paper and its application (Section 10), Textile materials and textile goods (Section 11), and Footwear, hats, umbrellas, parasols, and articles of fashion (Section 12).

Last come 3 Sections of products resulting from the transformation of mineral products: Wares of stone and of other mineral materials; ceramic products; and glass and glassware (Section 13), Real pearls, precious stones, precious metals and wares of these materials, and coin (Section 14), and Base metals and articles made therefrom (Section 15).

1/ League of Nations, Draft Framework, p. 4.

The third grouping, products of "industries which, by combining or transforming the products of the above-mentioned industries, produce new articles capable of being used for different purposes from those which the materials employed in the manufacture of those articles are intended," comprises: Machinery and apparatus and electrical material (Section 16), Transport material (Section 17), Scientific and precision instruments and apparatus; watchmakers' and clockmakers' wares; and musical instruments (Section 18), and Arms and ammunition (Section 19). Sections 20 and 21, "Miscellaneous goods and products not elsewhere included and works of art and articles for collections," do not belong under any of the three groupings.

A set of Explanatory Notes supplements the League Nomenclature. The Notes provide importers and customs officials with a detailed explanation of the content of each heading.

To deal with the "diversity of criteria" problem, the Subcommittee employed a well-defined set of "naming" principles. Examples taken from the preceding commodity groupings reveal what these principles are. The "animal, vegetable and mineral" divisions, for example, show that the experts sought "to classify commodities according to the main natural divisions established in the different branches of science." ^{1/}

Another principle requires listing the respective products by proceeding from the simple to the composite; attention thus has to be paid to the amount of work embodied in the article-- i.e., "the work done in transforming raw materials into semi-

^{1/} Ibid., p. 8.

manufactured or finished products." 1/ The experts applied this principle not only in the progression of the nomenclature from the first to the third grouping but also in the progression within a given Section (or even lesser division). In the title, "Textile materials and textile goods" (Section 11), for example, the ordering is no accident; raw materials are dealt with before finished products.

A third important rule is that "commodities of the same kind should, as far as possible, be grouped in one Section or in one Chapter." 2/ The "same kind" refers either to the same material origin or actual content (Section 7, for example) or the same use or purpose (Section 16), depending upon whether a product has a dominant component material.

The Sub-Committee sought to apply the rules flexibly, rather than rigidly, because in certain cases "needless complications would have been produced by the too absolute or rigid application of these principles." 3/ Thus, Sections 3 and 4 precede Mineral products (Section 5) because it is desirable: 4/

. . . to place all foodstuffs and articles for consumption, on account of their special importance, in an uninterrupted series in the first Sections, and separately from industrial materials.

1/ Ibid. Also see Ethel B. Dietrich, World Trade, pp. 264-5.

2/ League of Nations, Draft Framework, p. 8.

3/ Ibid.

4/ Ibid., p. 74.

Moreover, rigidity is not possible since the respective principles are not always compatible. Separating industrial raw materials from their animal, vegetable, or mineral division in order to list them in the Sections pertaining to the industry that utilizes them, for example, represents a pragmatic choice between two principles.

Two important prototypes.--Reference has already been made to the fact that there is considerable resemblance between the nomenclature employed in the Austro-Hungarian tariff of May 25, 1882, the Brussels Nomenclature of 1913, and the League Nomenclature. The experts did not stress such correspondence: 1/

. . . having examined the various nomenclatures, the Sub-Committee of Experts came to the conclusion that none of them could be taken as a standard nomenclature. It accordingly decided to draw up an entirely new nomenclature, embodying the good points to be found in those at present in use.

Moreover, part of the distinction of their achievement lay in their willingness to stress differences between tariff and statistical nomenclatures (like the 1913 Brussels), as much as their interrelationships. Nevertheless, they could not divorce themselves from the era in which they lived. As early as 1882 a tariff nomenclature had existed, whose basic logic and layout held a powerful attraction for many workers in the fields of tariff and statistical nomenclature. One would not be surprised,

1/ League of Nations, Draft Framework, pp. 7-8.

therefore, if in the ensuing decades customs experts, when undertaking to revise the tariff schedules of individual countries, would draw upon the best available "models." The 1913 Brussels Nomenclature was not impervious to the influence of such a "sophisticated" tariff; nor were the 30 nations that, directly or indirectly, imitated the 1913 nomenclature in their tariff laws. Appropriately, the Sub-Committee of Experts, likewise, found it hard to resist.

The Austro-Hungarian tariff of 1882.--A summary of the 50 categories in the 1882 Austro-Hungarian tariff demonstrates the similarity of the League Nomenclature to it. 1/ The first 17 categories correspond to the first grouping in the League Nomenclature. They include four groups of items in their natural state: vegetables (Items 1 through 7); animals and animal products (8-10); wood, coal, and turf (15); and minerals (17). They also include three groups of items in a prepared state, consisting of: grease and fat oils (11-12), beverages (13), and edibles (14). The next 22 categories of the 1882 tariff correspond to the League Nomenclature's second grouping. First come drugs and perfumes (18) and dyeing and tanning materials (19). Transformed animal materials include leather and leather goods (32) and furriers' goods (33). The following comprise transformed vegetable materials: Textile materials and textile goods (22-26), paper

1/ See U.S. Cong., Foreign Tariffs - Discrimination Against the Importation of American Products, p. 205 et seq.

and paper goods (29), india-rubber and goods made therefrom (30), and wooden and bone ware (34). Finally, transformed mineral products consist of glassware, stoneware, and clayware (35-37) and base metals and goods made therefrom (39). The remaining categories of the 1882 tariff correspond to the League Nomenclature's third grouping. They include machines and parts of machinery (40); vehicles of transportation (41); instruments, watches, and fancy goods (43); and chemical items, including explosive material (45-48). Like the League Nomenclature, the 1882 tariff concludes with two catch-all categories: objects of art and literature (49) and refuse (50).

It should be obvious from the foregoing that the League Nomenclature utilized the same basic "naming" principles as did the 1882 tariff. They are: using natural divisions established in science, classifying imported articles by a progression from the simple to the composite, and grouping commodities related by use or material in the same category.

The Brussels Nomenclature of 1913.--The similarity of the 1913 Brussels Nomenclature to both the 1882 tariff and the League Nomenclature is also striking. Like the League Nomenclature, the 1913 Brussels Nomenclature begins with a group of Live animals (7). In the second group, Foods and beverages, a minor difference between the 1913 and "the

1882-League Nomenclature" 1/ is evident. In the former, alimentary animal and vegetable items (allotted to the second group) are separated from other simply-prepared animal and vegetable items (allotted to the third group, Raw or simply-prepared materials). In the latter, they are not separated. In the 1913 model, however, as in "the 1882-League Nomenclature," all foodstuffs and articles for consumption (natural and prepared) are grouped together.

The 1913 Brussels and "the 1882-League Nomenclature" differ significantly in that the former does not separate industrial raw materials from the animal, vegetable, or mineral division while the latter does. 2/ Thus, the third group of the 1913 nomenclature contains textile materials (Items 91 through 97) while textile products (112-130) are part of the fourth group, Manufactured products. Aside from this segregation of raw materials, the correspondence between Manufactured products and the second and third groupings in "the 1882-League Nomenclature" is striking. Items 98-156 in the 1913 Brussels correspond to the second grouping in "the 1882-League" system. In summary they are: chemical products (98-104); cigars and cigarettes (105-106);

1/ The term "1882-League Nomenclature" is employed here loosely to cover the features common to the nomenclature of the 1882 tariff and the League Nomenclature. The two are so much alike (as has been seen) that the 1913 Brussels Nomenclature may be compared with both simultaneously.

2/ As previously noted, in order to list them in the divisions pertaining to the industry that utilizes them.

animal skins (107-111); textile products (112-130); rubber goods (131); wooden goods (132-138); wares of stone and of other mineral materials, ceramic products, and glass and glassware (139-146); processed iron and steel and materials thereof and products of base metals (147-154); and jewelry (155-156). Items 157-179 correspond to the third grouping. In summary they are: transport materials (157-158 and 168-173); machinery and apparatus and electrical materials (159-167); musical instruments, scientific and precision instruments, and watchmakers' and clockmakers' wares (174-176); and arms and ammunition (177-179). Not surprisingly, the last items in the fourth group of the 1913 Brussels are miscellany (180) and works of art and articles for collections (181).

The major differences between the 1913 Brussels and "the 1882-League Nomenclature" seem to stem from a difference in emphasis among the three basic "naming" principles. The 1913 statistical nomenclature puts less emphasis on grouping related commodities in the same category than do the other two. For example, it stresses that cotton is a vegetable raw material rather than a component part of apparel. And in terms of the respective purposes for which the statistical and tariff nomenclatures were designed, this is appropriate. 1/

1/ See above, "Statistical nomenclatures."

Adaptability of the League Nomenclature.--In approaching the second principal cause of complexity and diversity in the then existing tariff nomenclatures--i.e., the problem of diversity in the economic structures of the many countries--the Sub-Committee made the following statement: 1/

Whether we like it or not, a customs nomenclature must inevitably reflect the economic conditions of a country. A detailed nomenclature is necessary for a country in which industry is highly developed but a summary nomenclature will suffice for a country in which industry is only in the embryonic stage. Consequently, the standard nomenclature is to be regarded as a framework which can be expanded or contracted to fit different countries.

Accordingly, the experts sought to give the League Nomenclature the necessary adaptability by stipulating that only the 991 principal Items be compulsory to the user. Countries desiring to subdivide an Item, however, had to accept the enumerated sub-items; alternatives could not be substituted for them. Nevertheless, the Items could be more finely articulated into sub-items than in the model nomenclature; or, contrarywise, the number of sub-items could be reduced by grouping two or more together. Thus, without altering the structure of the standard nomenclature, a country might "still--and this [was] essential--be free and in a position to draw up a tariff suited to its particular economic and fiscal requirements." 2/

1/ League of Nations, Draft Framework, p. 9. Italics omitted.

2/ League of Nations, Draft Customs Nomenclature (1931), p. 6.

After the League Nomenclature had been submitted for review by the various nations and their recommendations had been weighed, a revised edition was issued in 1937. Containing only one more Chapter than the 1931 version, the 1937 Nomenclature is similar to its predecessor. Dietrich, writing in 1939, pointed out that "though no convention [had] been signed, about 20 countries [were] using the nomenclature in the revision of their tariffs." ^{1/}

The Minimum List of Commodities for
International Trade Statistics

While the tariff experts were busy designing the League Nomenclature, another League of Nations committee--the Committee of Technical Statistical Experts--was at work on a new uniform international statistical nomenclature. The Brussels Nomenclature of 1913 was deemed neither sufficiently detailed nor logical enough. ^{2/} The new statistical nomenclature developed by the League is based largely on its tariff nomenclature--as is explained below. Equally important is a break with the past. The League did not deny that, by virtue of the derivation of one from the other, the two nomenclatures are closely related. Nevertheless, their common origin provides no basis for either ignoring the distinct purposes for which each was designed or

^{1/} Dietrich, op. cit., p. 265.

^{2/} Harriet E. Davis, Pioneers in World Order, p. 180.

employing them interchangeably. The division of labor in their formulation emphasizes the distinctions between the two.

The first decade and a half after 1913 was more eventful in the development of a uniform international statistical nomenclature than it was for a tariff nomenclature. In August 1919 the League sponsored an informal meeting of statisticians at London to discuss the League's role in international statistics and, in particular, its relation to international statistical institutions. The meeting ended with the suggestion that a committee be appointed to consider the distribution of work among the various organizations and the feasibility of establishing a central advisory commission on statistics to meet at Geneva. The League Council set up such an "international statistical commission" in May 1920. It included representatives of the International Institute of Statistics (IIS) and the International Bureau of Commercial Statistics. 1/

The Genoa and Geneva Conferences.--In May 1922 the Genoa Conference recommended the establishment of a uniform framework for international trade statistics and charged the League, in conjunction with other competent bodies, with studying appropriate procedures. 2/ Thereupon, a Mixed Committee, consisting of representatives of the League Economic Committee, the IIS,

1/ See G. B. Roorbach, editor, op. cit., pp. 157-8.

2/ Congres Scientifique pour l'Expansion des Relations Commerciales Internationales, Compte Rendu, p. 119.

and the International Bureau of Labor, was established. It submitted reports and suggestions concerning a uniform statistical nomenclature to three biennial conferences of the IIS (Brussels, 1923; Rome, 1925; and Cairo, 1927) and to the League Economic Committee. The latter, after considering the reports, submitted them to the various governments for their suggestions. Their replies urged that some sort of international agreement be formulated to develop a uniform statistical nomenclature. Accordingly, the League Council approved the proposal of the League Economic Committee that "a conference to which all governments should be invited to send official statisticians should be convened." 1/

As a result, the International Conference Relating to Economic Statistics was convened at Geneva in 1928. It established by convention the Committee of Technical Statistical Experts (the Committee of Experts), which 2/

. . . was given certain clearly specified duties and had the more general function of . . . seeking to improve economic statistics . . . [It] was to consist of ten members, appointed by the administrative body of the League of Nations. The term of office was indefinite, and most of the members continued to serve until World War II put an end to the League.

The Minimum List of Commodities for International Trade

1/ League of Nations, Proceedings of the International Conference Relating to Economic Statistics, p. 5.

2/ Edward D. Durand, Memoirs of Edward Dana Durand, p. 285.

Statistics (the Minimum List), a uniform international statistical nomenclature, resulted from the work of the Committee of Experts. The original Minimum List (1935) is based on the 1931 League (tariff) Nomenclature. The revised edition of the Minimum List (1938) is based on the 1937 revised League Nomenclature, which differs but slightly from the 1931 version. 1/

Essential features of the List.--The Minimum List (1938) consists of 456 statistical Items, arranged in 50 Chapters, which in turn are grouped in 17 Sections. Those responsible for the List indicated that essentially it provides 2/

a combination and re-arrangement of the Items as listed in the project for customs nomenclature. The minimum statistical list is necessarily much the more condensed.

Most Items are either counterparts of League Nomenclature Items or a combination of two or more successive Items in the latter.

1/ The bases of the 2 Minimum Lists appear in League of Nations, Minimum List of Commodities for International Trade Statistics, preface. Similarity to the League Nomenclature is evident from the 17 Section headings of the (1938) Minimum List: Food products, beverages, and tobacco; Fatty substances and waxes, animal and vegetable; Chemicals and allied products; Rubber; Wood and cork; Paper; Hides, skins, and leather and manufactures thereof; Textiles; Articles of clothing of all materials and miscellaneous made-up textile goods; Products for heating, lighting, and power and lubricants and related products; Non-metallic minerals and manufactures thereof; Precious metals and precious stones, pearls, and articles made of these materials; Base metals and manufactures thereof; Machinery, apparatus, and appliances and vehicles; Miscellaneous commodities; Returned goods and special transactions; and Gold specie.

2/ League of Nations, Minimum List of Commodities for International Trade Statistics, Revised Edition, p. 54.

Occasionally, an Item is a combination of League Nomenclature Items that are not successive but are in the same Chapter or contiguous Chapters. 1/

Nevertheless, the differences in aims of the users of the two nomenclatures are not ignored. For example, to accommodate those interested in the relative contribution to a nation's foreign trade of a good unimportant for tariff purposes, the Committee of Experts made primary Items of Items given a secondary rank in the League Nomenclature. Moreover, 2/

an Item of the customs nomenclature which contains no sub-divisions has been broken down . . . either by dividing it into two or more primary Items or by showing sub-items . . .

As to the "naming" principles employed, 3/ natural divisions used in science and material origin or actual content determine Chapter titles. Where these are less applicable, "use" or "purpose" predominates. Within a Chapter and in successive Chapters relating to like material the listing of goods is by a progression from the simple to the composite.

The Standard International Trade Classification

The profound changes attendant upon World War II, in both the structure of international trade and in the need of governments for greater comparability of international trade data,

1/ Ibid, p. 55.

2/ Ibid, p. 56.

3/ Ibid, p. 60.

led the United Nations Statistical Commission to recommend that the Minimum List be revised. In particular, it urged that the UN Secretariat, with the assistance of expert consultants, prepare a draft nomenclature and circulate it to governments and specialized agencies for their comments. The proposal was effected by June 1948.

By January 1949, 42 countries and five agencies had submitted comments. The Secretariat, having altered the nomenclature in accordance with these suggestions (and additional suggestions received between April 1949 and April 1950), prepared a new draft, which was received and approved by the UN Statistical Commission in 1950. The Standard International Trade Classification (SITC), as it is called, received the approval of the UN Economic and Social Council in July 1950. ^{1/} The original SITC consists of 570 Items, arranged in 150 Groups, which in turn are arranged in 52 Divisions; the Divisions are grouped in 10 Sections. The SITC is a five-digit nomenclature; that is, a five-digit code number identifies each Item. For example, "Laminated and other safety glass" is Item 664-07. The first digit denotes the Section (6-Manufactured goods classified chiefly by material); the second digit, the Division (66-Non-metallic mineral manufactures); the third digit, the Group

^{1/} The brief discussion of the origin of the SITC in this and the preceding paragraph is taken from United Nations, Standard International Trade Classification (1950), pp. 1-2.

(664-Glass); and the final two digits, the Item.

The SITC differs primarily from the Minimum List as does the 1913 Brussels from the League Nomenclature--namely, in that the former does not separate industrial raw materials from their animal, vegetable, or mineral divisions (in order to list them in the divisions pertaining to the industry that utilizes them) while the latter does. 1/

Relation to the Brussels Tariff Nomenclature.--Those who formulated the contemporaneous Brussels Tariff Nomenclature (BTN) were careful to stress the distinctions between it and the SITC (just as League Nomenclature-Minimum List differences had been emphasized earlier). They noted that "with such radically different aims, [the nomenclatures] can be identical neither in outline nor in detail." 2/ Because of the importance of raw hides and skins in the foreign trade of certain countries, for example, the SITC has 4 different headings, according to the nature of the animal. The 1950 BTN, on the other hand, has but

1/ Each of such Minimum List Sections as Rubber; Wood and cork; Paper; Hides, skins, etc.; Textiles; and Non-Metallic minerals, etc., is apportioned, according to stage of manufacture, between 2 SITC Sections, Crude materials, inedible, except fuels (Section 2) and Manufactured goods classified chiefly by material (6). Precious stones, etc., and Base metals, etc., are allotted entirely to Section 6. The other Minimum List Sections have the following SITC counterparts: Food (0); Beverages and tobacco (1); Mineral fuels, lubricants, and related materials (3); Animal and vegetable oils and fats (4); Chemicals (5); Machinery and transport equipment (7); Miscellaneous manufactured articles (8); and Miscellaneous transactions and commodities (9).

2/ European Customs Union Study Group, op. cit., p. 17.

a single heading, inasmuch as hides and skins usually are duty-free and, hence, unimportant for tariff purposes. Thus, the authorities concluded that the BTN and the SITC "should exist side by side, the one complementing the other." 1/ However 2/

. . . since in many countries the primary data used for the preparation of international trade statistics are collected by the customs on the basis of the national tariff classification system, it soon became evident that a proper correlation between these two basic classifications was essential.

In 1951 a "two-way coding key" between the SITC and the BTN was developed to facilitate regrouping, for statistical purposes, of data based on the BTN. In 1956 the key was revised in accordance with the 1955 revision of the BTN. The key proved to be inadequate, however, and an important revision of the SITC was accordingly undertaken. 3/

The revised SITC.--The result is the Standard International Trade Classification, Revised (1961). It generally preserves the original structure at the Group level and above. In a few cases, however, the revised SITC was modified at the Group level and above in order to increase the classification's usefulness, by taking account of structural changes in international trade after 1950, and to accommodate it, when necessary, to the

1/ Customs Cooperation Council, The Brussels Nomenclature for the Classification of Goods in Customs Tariffs, p. 19.

2/ Ibid.

3/ Ibid.

structure of the BTN. At the Item level, most of the original five-digit Items are four-digit Sub-groups of the revised SITC. Where necessary, however, five-digit headings are used to achieve a reciprocal one-to-one correspondence between it and the BTN. This alignment permits the SITC to benefit from the precision of definition that has been articulated for BTN Items. 1/

In summary, the revised SITC consists of nine Sections, 56 Divisions, 177 Groups, and 625 Sub-groups. Because 257 of the latter are further subdivided (into 944 subsidiary headings), the classification totals 1,312 basic items.

The Brussels Tariff Nomenclature

The Brussels Tariff Nomenclature (BTN)--the central subject of this study--is directly rooted in the post-World War II efforts to achieve economic unification in Western Europe. On September 12, 1947, 13 member nations of the Committee for European Economic Cooperation issued in Paris a joint declaration, wherein they agreed to explore the possibility of establishing one or more inter-European customs unions. They then set up in Brussels an European Customs Union Study Group (ECUSG) to examine problems incidental to the project and to initiate the steps necessary for its realization. The Permanent Tariff

1/ For the foregoing see United Nations, Standard International Trade Classification, Revised (1961), introduction.

Bureau (the PTB) was created as a subordinate body of the Tariff Committee of the ECUSG. The Bureau met in Brussels from March 15 to October 15, 1948, 1/ during which time it drew up the provisional text of the first BTN.

In connection with its duty of designing a nomenclature for the proposed customs union, the PTB was instructed 2/

to draw upon the [League] Nomenclature and to take advantage of the work of and experience acquired by those countries which had recently adopted or drafted a new tariff.

The Bureau soon discovered, however, that it could not merely adopt the League Nomenclature virtually in toto--i.e., with only minor alterations to account for technological change. 3/ It could not do so because its "goal, and hence its work, was completely different from that of the Geneva experts." 4/

The League Nomenclature provides a framework that ensures that the same article falls under the same main heading

1/ It met five or six times weekly and held 140 meetings altogether. Representatives from Benelux, Denmark, France, Greece, Italy, Norway, Portugal, Sweden, Switzerland, United Kingdom, and the Allied zones of occupation in Germany were present, either continuously or at intervals. See European Customs Union Study Group, Report to the Tariff Committee, pp. 5-6.

2/ Ibid., p. 2.

3/ The PTB also was instructed to make such minor alterations as were dictated by the experience of France and Benelux, both of which were formulating tariff nomenclatures contemporaneously with the PTB. Those drafting the nomenclatures of France and Benelux were utilizing the League Nomenclature as a basis for their new schedules; their experience in adapting their own tariffs to the League Nomenclature was to prove helpful to the PTB.

4/ European Customs Union Study Group, Report to the Tariff Committee, p. 10.

throughout the world. As such, its use was only partly compulsory. A nomenclature for the members of a prospective customs union, on the other hand, had to be more binding. It "should not only contain no optional headings but should also be entirely free from ambiguity" 1/

Very early the PTB took up the "naming" principles to be employed. 2/ It held that the nomenclature should be simple enough to be understood by the general public as well as by technicians. It was determined, however, that exactitude should never be sacrificed to simplicity. Moreover, 3/

Classification should be progressive from raw material to finished articles and as far as possible the content of individual Chapters should follow the same order of progress as the whole nomenclature. In some cases it has been necessary to depart from the strict rule to avoid grouping articles not of a kind 4/; the Bureau's draft went somewhat further than Geneva in this respect in bringing together articles of different materials but of the same manufacturing group.

Still another rule was to strive for completeness--but not at the expense of specifying unimportant items individually.

Finally, differentiation based on the use or destination of the goods should be avoided as far as possible.

1/ Ibid., p. 11.

2/ See *ibid.*, pp. 18-19 and 25.

3/ Ibid., p. 18.

4/ It is the distinction of the SITC, of course, that it discourages such departures.

The 1948 and 1949 Drafts.--In its provisional text, the PTB altered only slightly the general order of Sections and Chapters 1/ laid out in the League Nomenclature. The changes gave room for more detail for classes of goods whose importance had increased after the League Nomenclature had been compiled. World War II had greatly accelerated the rate of technological change occurring in the economies of industrial countries, with the result that many new products entered international trade--products which created classification problems for customs officials. National tariff nomenclatures had become antiquated; examples of such new products are plastics, synthetic textile fibers, aircraft, and light metals.

The second session of the PTB began in Brussels on January 15, 1949. 2/ Its task was "to revise and complete its 1948 text in the light of observations made by the customs administrations of the various states." 3/ In such areas as petroleum, chemicals, and iron and steel products technical experts assisted the Bureau.

The Revised Draft Tariff Nomenclature was ready by August 1949. It contains 1,360 Items and 4,360 subheadings (compared with 1,349 and 4,498 the year before), and a series of Legal Notes. The Sections follow almost entirely the League

1/ Legal Notes introduce each Chapter. See below, p. 53.

2/ Countries represented continuously or nearly continuously were: Benelux, France, Germany, Italy, Portugal, and United Kingdom.

3/ European Customs Union Study Group, Report to the Customs Committee, p. 3.

Nomenclature. So do the first 27 Chapters. Section 6 (chemicals, Chapter 28 et seq.), however, contains three additional Chapters. Moreover, the arrangement of chemical products is changed so that specific compounds, classified according to chemical groups, come first, followed by the most closely comparable products. The Section on Rubber contains one extra Chapter. Section 11 (Textiles) contains six additional Chapters (four of which seek to give more importance to products obtained by modern techniques), and a new sequence is employed. Sections 15 (Base metals) and 20 (Miscellaneous) contain two and one additional Chapters, respectively. Finally, Section 19 (Arms and ammunition) omits one Chapter. Apparently the PTB was irked at the length of its own product. Because of Bureau members' insistence 1/

. . . it seemed necessary to show all the Items corresponding to appreciable differences in duty in the several existing tariffs in so far as such Items did not involve insuperable practical difficulties Such a nomenclature is obviously too long and some way of condensing it should be sought.

The 1950 Convention.--The fifth session of the ECUSG (November 14-17, 1949) concluded that the 1949 Draft should, subject to certain contractions and amendments, serve as the basis for the common tariff of the projected European customs union.

1/ Ibid., pp. 17-18.

Pending the establishment of that union, the Group recommended that 1/

participating governments conclude an international convention to render obligatory the adoption of the main headings of the 1949 Brussels Nomenclature as the bases of their respective tariffs.

To prepare for such a convention, the Group set up a Special Nomenclature Committee (SNC) 2/ under the authority of the Customs Committee. Its job was to reduce the main headings of the 1949 Nomenclature as far as possible, care being taken not to eliminate important Items. It was then expected to "make any necessary alterations to the detailed Draft . . . including its subheadings." 3/ No fundamental changes in Section or Chapter structure were to be made.

The SNC's work proved to be more involved, however, than merely deciding, for the purpose of contraction, which Items were to be combined or omitted. For one thing, because the 1949 subheadings had been designed both to clarify what is encompassed by the Items and to permit the latter themselves to be simplified, any suppression of subheadings necessarily would involve recasting the corresponding Items in order to prevent ambiguity. In

1/ European Customs Union Study Group, Reports Submitted to the Customs Committee, p. 3.

2/ Representatives of Benelux, France, several Scandinavian countries, and the United Kingdom worked with a West German observer. No UN representative was there, but one was expected to attend the proceedings of the Customs Committee. He was to submit the original SITC for comparison with the 1950 BTN. See *ibid.*, p. 7.

3/ *Ibid.*, p. 4.

addition, because the new Draft was to be the basis of not one but a considerable number of tariffs, the Items and Notes would have to be formulated in such a way that participating countries could adapt their tariffs to them. This last task was, of course, quite different from that of those who formulated the 1948 and 1949 Drafts. In preparing a nomenclature for a common tariff, they had had to allow for the headings in tariffs of participating states that involved different rates of duty. This had been an Item-proliferating process. The SNC's job, on the other hand, was an Item-limiting process. That is, ". . . only the really indispensable headings, corresponding to real differences in the character of goods and to marked commercial trends" were maintained. 1/ Signatories to the Convention were entirely free 2/

. . . to divide the compulsory main headings into as many sub-headings as they [might] find necessary. The principle is similar to that followed by the authors of the League of Nations Nomenclature. It is even simpler in that the text . . . contains no sub-headings.

The resulting 1950 Nomenclature for the Classification of Goods in Customs Tariffs contains 1,097 Items, the present-day number. Likewise, the 99 Chapters and 21 Sections correspond to the present-day (and 1949) totals. A new feature is the insertion at the head of the Nomenclature of "provisions

1/ Ibid., p. 15.

2/ Ibid.

codifying the principles which had governed the drafting of the Nomenclature and setting out rules to ensure its correct legal interpretation [the General Rules]." 1/ Those 1949 Legal Notes applying to sub-headings are, of course, omitted; the remainder is revised.

On December 15, 1950, the Convention on the 1950 Nomenclature was opened for signature. On the same day the Convention Establishing a Customs Cooperation Council (CCC) was opened. The CCC, based in Brussels, was, inter alia, to be responsible for securing uniformity in the interpretation and application of the Nomenclature Convention and for the general supervision of its operation. To this end the CCC was to establish a Nomenclature Committee. Accordingly, in February 1953 an Interim Nomenclature Committee was set up to pursue, pending the official entry into force of the Nomenclature Convention, the work previously done by the Customs Committee of the ECUSG. After the Convention became effective, on September 11, 1959, the permanent Nomenclature Committee was born. 2/ It held its first session on May 23, 1960. 3/

1/ Ibid., p. 63. The rules were initially contained in a United Kingdom proposal to the March 1950 session of the Customs Committee.

2/ The valuation and other work of the Customs Committee are now performed by the Valuation Committee and the Permanent Technical Committee.

3/ For the foregoing see Customs Cooperation Council, op.cit., p. 13.

The 1955 BTN.--In pursuance of its aim of preserving international uniformity of nomenclature the CCC, from March 1951 to July 1955, prepared the Explanatory Notes to the Brussels Nomenclature. In compiling them, it had come to realize that amendments to the BTN were needed. Thus, on July 1, 1955, a Protocol of Amendment to the Nomenclature Convention was signed, which "in effect replaced the 1950 Nomenclature by a revised text incorporating the amendments to the 1950 version." 1/ The revised text, the 1955 BTN, is the first to contain all the major components of the nomenclature currently in effect (the 1965 BTN). Indeed, its essential feature is a completely integrated system of General Rules, headings, Legal Notes, and Explanatory Notes to ensure "the uniform classification of all goods in all tariffs based on the Brussels framework." 2/

The General Rules lay down, in particular, "the correct classification procedure to be adopted when, because of their nature or composition, goods are prima facie classifiable under two or more headings." 3/

Each of the 1,097 headings is identified by four digits, the first two of which represent the Chapter while the second two indicate the position in the Chapter. (This procedure is taken over from the 1950 Nomenclature.) In terms echoing the League

1/ Ibid., p. 3.

2/ Ibid., p. 21.

3/ Ibid., p. 7.

Sub-Committee of Experts and the PTB, the CCC explained that it had grouped together 1/

. . . all the goods relating to the same industry, from the raw material to the finished products In general, the experts adopted the principle of "progressive" classification under which all articles derived from the same raw material (from the unworked to the finished product) are classified in the same Chapter; this system was, however, not applied with undue rigidity.

The Legal Notes (Section and Chapter Notes) define the precise scope and limits of each heading (or group of headings), Chapter and Section. The drafting formulae used in deriving them include 2/

General definitions delimiting the scope of a heading or the meaning of particular terms, non-exhaustive lists of typical examples, exhaustive lists of the goods covered by a heading or a group of headings, and lists of excluded goods.

Finally, the Explanatory Notes provide full details of the scope of each heading. They list the main articles included and excluded, along with appropriate descriptions of the goods concerned. The Explanatory Notes stress technical properties, appearance, method of production and uses, etc. In preparing the Notes, the CCC used all available technical literature (in a number of languages). For very specialized categories it sought the advice of professional experts.

1/ Ibid., p. 6.

2/ Ibid., pp. 8-9.

Adoption of the main headings, Chapter Notes, Section Notes, and Interpretative Rules of the BTN are binding for countries signatory to the Nomenclature Convention. Each signatory has complete freedom to set up any subdivision under the main headings that it wishes. The subdivisions have to be so drafted, however, that they relate only to products classified in the relevant Brussels Items. Similarly, no national Legal Notes may modify the scope of any Sections, Chapters and/or headings; moreover, such Notes must be so arranged that they do not impair comparability of all BTN-based tariffs.

The CCC by no means viewed the 1955 BTN as an inflexible framework. It realized that amendments would be essential from time to time 1/

. . . to keep the text abreast of developments in commercial practice and in technological progress, and to provide for the classification of new products launched on the international market often in replacement of the formerly conventional types of manufactures.

Nevertheless, the member nations agreed that such changes should be kept to a minimum, because too many changes would embarrass countries unable to amend their national tariff laws without parliamentary approval. Thus, "amendments should be made only after relatively long intervals of time, for example, four or five years." 2/ In the interim, classification should follow

1/ Customs Cooperation Council, The Brussels Nomenclature for the Classification of Goods in Customs Tariffs, p. 17.

2/ Ibid.

existing provisions. Accordingly, amendments to the BTN were introduced by recommendations on June 16 and December 8, 1960, and on June 9, 1961, but were not implemented until January 1, 1965. 1/

The Nomenclature Committee.---Turning out new editions of the BTN is perhaps the most useful aspect of the CCC's work in the sphere of tariff nomenclature. A more routine task in this area (but the stuff of which new editions are made) is to 2/

. . . issue classification rulings to resolve questions raised by countries which seek advice concerning difficulties encountered in the application of their own national tariffs, or to provide an agreed uniform classification when individual countries consider that a particular product should fall in different headings.

The CCC makes this the main job of its Nomenclature Committee.

Generally the Nomenclature Committee, one of the three major committees of the CCC, 3/ meets biannually. It consists of delegates representing contracting parties to the Nomenclature Convention; observers from non-member nations and international organizations also attend its sessions. In pursuance

1/ In the latter year the CCC published a new edition of the BTN, "specially designed to constitute for the user a working instrument on the most comprehensive basis possible." It incorporates the statistical sub-headings recommended by the Council to ensure correlation with the revised SITC. A new edition of the Explanatory Notes followed in 1966. See Customs Cooperation Council, The Activities of the Council in 1965, p. 10.

2/ Customs Cooperation Council, The Brussels Nomenclature for the Classification of Goods in Customs Tariffs, p. 15.

3/ The other 2 committees are the Valuation Committee and the Permanent Technical Committee.

of its primary task, which is cited above, the Committee: 1/

- (a) Collates and circulates information concerning the application of the nomenclature;
- (b) Studies the procedures and practices of the contracting parties in relation to the classification of goods for customs purposes;
- (c) Makes recommendations to the contracting parties to assure uniformity in the interpretation and application of the nomenclature;
- (d) Prepares draft amendments to the Nomenclature Convention;
- (e) Drafts and amends the Explanatory Notes; and
- (f) Issues Classification Opinions.

When a classification question is raised, the Secretariat examines the issue and prepares documents discussing the relative merits of the various headings for classifying the goods in question. The Secretariat usually indicates which heading it considers the most appropriate. These documents, together with appropriate samples of the materials under consideration, are submitted to the Nomenclature Committee, which may accept, modify, or reject the Secretariat's proposals. To the Committee, four courses of action are open. It does nothing if it finds that the Explanatory Notes or the nomenclature itself already provide the answer. It issues an official Classification Opinion, subject to CCC approval, if the question raises special difficulties or new features within the framework of the Explanatory Notes. If necessary, it recommends an amendment to the Explanatory Notes. Finally, in rare case, if the existing terms of the

1/ Customs Cooperation Council, In brief . . . The Customs Cooperation Council, p. 17.

nomenclature do not provide a reasonable solution, it recommends that the nomenclature itself be amended.

The Nomenclature Committee submits reports of its activities to the CCC itself, which meets annually for one week in May or June. The reports are considered at recurring sessions of the CCC. The Council discusses the reports and then makes the appropriate executive decisions.

Countries employing the BTN.--On September 1, 1967, at least 113 countries or customs territories were employing the BTN as a basis of their customs tariffs. The only countries bound to complete observance of the BTN principles are those (25 in number) that have either ratified or acceded to the Nomenclature Convention. Inasmuch as CCC membership is a prerequisite for either such ratification or accession, those 25 countries have become members of the CCC. 1/ Twenty-seven other CCC member countries have adopted the BTN, but have never either ratified or acceded to the Nomenclature Convention. 2/ The majority (67) of the 113 countries have adopted the BTN, without

1/ On Sept. 1, 1967, they were: Algeria, Austria, Belgium, Denmark, Finland, France, Germany (Fed. Rep. of), Greece, Iran (draft tariff), Ireland, Italy, Japan, Kenya, Luxembourg, Netherlands, Norway, Portugal, Rwanda, Spain, Sweden, Switzerland, Tunisia, Turkey, United Kingdom, and Yugoslavia.

2/ On Sept. 1, 1967, they were: Australia, Burundi, Cameroon, Central African Republic, Chile, Czechoslovakia (draft), Gabon, Haiti, Indonesia (draft), Israel, Ivory Coast, Jamaica (draft), Jordan, Lebanon, Madagascar, Malawi, Malaysia (draft), New Zealand (draft), Nigeria, Pakistan, South Africa, Sudan (draft), Syrian Arab Republic, Tanzania (draft), Uganda (draft), United Arab Republic, and Upper Volta.

having joined the CCC; 1/ despite their failure either to ratify or accede to the Nomenclature Convention, most of those nations have adhered strictly to the Convention principles.

In addition to individual nations, several regional organizations have utilized the BTN in varying degrees. 2/ Three principal bodies set up to further inter-European economic cooperation, for example, have utilized the BTN. The European Economic Community has employed it as the basis of its common external tariff. The European Coal and Steel Community has adopted those parts of the BTN that pertain to the products with which it is concerned. Finally, inasmuch as the seven members of the European Free Trade Association (EFTA) had already adopted the BTN,

1/ On Sept. 1, 1967, they were: Angola, Argentina, Bolivia, Brazil, Cambodia, Cape Verde (draft tariff), Chad, Colombia, Comoro Is., Congo (Brazzaville), Congo (Kinasha), Cuba, Cyprus (draft), Dahomey, Ecuador (draft), Ethiopia (draft), Fiji (draft), French Guiana, French Polynesia, Gambia, Ghana, Guadeloupe, Guinea (Autonomous territories of Equatorial), Guinea (Portuguese Province of, draft), Guinea (Rep. of), Iceland, India (draft), Iraq, Korea (Rep. of), Laos, Liberia, Libya, Liechtenstein, Mali, Malta, Martinique, Mauritania, Mexico, Monaco, Morocco, Mozambique, New Caledonia and dependencies, Niue and Cook Is., Niger, Paraguay (draft), Peru, Philippines, Reunion, St. Pierre and Miquelon, Sao Tome and Principe (draft), Saudi Arabia (draft), Senegal, Sierra Leone, Somali (Rep. of, draft), Spanish provinces in Africa, Surinam, Thailand, Togo, Timor, Uruguay, and Vietnam (Rep. of).

The data in this and the 2 immediately preceding notes are to be found in Customs Cooperation Council, The Activities of the Council in 1965, pp. 68-9 and 126-7, and Customs Cooperation Council, In brief . . . The Customs Cooperation Council.

2/ Customs Cooperation Council and In brief . . . The Customs Cooperation Council, p. 13.

the implementation of that Association was facilitated by the availability of the uniform nomenclature. Accordingly, the lists of manufactured or processed goods covered by particular provisions of the EFTA convention have been defined by reference to the BTN. In addition, two other regional organizations have chosen the BTN as the basis for their common external tariffs: The Latin American Free Trade Association (LAFTA) 1/ and the Common Organization of African States and Madagascar.

Conclusion

More than a century ago (1853) the possibility of designing a tariff nomenclature suitable for adoption by all nations as a uniform framework for their respective tariff laws first came under discussion. The development of such a nomenclature was a slow, time-consuming process. In 1913 the Brussels Nomenclature, the end result of recommendations by various international economic congresses, appeared. Statistical in design, it was used in various instances, nonetheless, for tariff purposes. In 1931 the League of Nations brought out its Draft Customs Nomenclature, earmarked specifically for tariff applications; and in 1935, its Minimum List, for statistical ends. The League's use of separate committees to prepare the two nomenclatures emphasizes its realization that each nomenclature has its own distinct purposes.

1/ The Central American Free Trade Association (CAFTA), on the other hand, has based the nomenclature of its common external tariff--Nomenclatura arancelaria uniforme centroamericana (NAUCA)--on the SITC.

The League Nomenclature had involved no convention; hence, there was no guarantee of uniformity in its application. World War II, moreover, brought major changes on the international trade horizon. Thus, post-war efforts to prepare a more modern, more binding framework for nations' tariff laws were well-received. The fruit of such labors is the current BTN (1965). Its adoption by an ever-growing number of nations manifests a continuing conviction that use of the BTN contributes materially to both the efficient administration of Customs and to the expansion of world trade. 1/

1/ Customs Cooperation Council, The Brussels Nomenclature for the Classification of Goods in Customs Tariffs, p. 21.

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