

UNITED STATES TARIFF COMMISSION

**REGULATION OF IMPORTS
BY EXECUTIVE ACTION**

MISCELLANEOUS SERIES



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UNITED STATES TARIFF COM

REGULATION OF IMPORTS
BY EXECUTIVE ACTION IN COUNTRIES
WITH INDEPENDENT TARIFF
JURISDICTION

With particular reference to developments between
the two World Wars

UNDER THE PROVISIONS OF SECTION 338
TITLE III, PART II, TARIFF ACT OF 1930

MISCELLANEOUS SERIES



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UNITED STATES TARIFF COMMISSION

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WASHINGTON, D. C.

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FOREWORD

This report is concerned with countries which have, or had until recent years, the power to fix and alter their import tariffs independently. It is essentially a revised edition of the Tariff Commission's studies issued from time to time under the title "Regulation of Tariffs in Foreign Countries by Administrative Action," the last of which showed the situation as of July 1, 1934. The inclusion of a section on the United States and of summaries on nontariff import restrictions in all countries makes it appropriate to issue this report under a broader title.

The present European war has already brought about in many countries an extraordinary increase in executive tariff powers, and in a number of countries the loss of independent tariff jurisdiction. But the purpose of this report is to show the extent to which countries with independent tariff jurisdiction resorted to executive control of import duties in the period between the two world wars, rather than to describe the situation in 1940. However, most changes in independent countries from August 1939 through 1940 are described, but no attempt is made to follow developments in occupied countries after they lost their independent tariff jurisdiction.

In general this report deals only with the more important powers, not with action taken under them or with detailed powers referring to individual commodities. It is, therefore, not a guide for exporters. The treatment of nontariff import controls is very cursory, and the broad question of punitive measures is entirely omitted.

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REGULATION OF IMPORTS BY EXECUTIVE ACTION

INTRODUCTION

Under existing or previous constitutions the legislatures in most countries are, or have been, vested with the power to determine import duties,¹ and to put them into effect, but, because of the increasingly intricate factors that must be considered in determining such duties, there has been a pronounced trend on the part of governments in recent decades to transfer this power to the Executive, either under constitutional provisions or by enacting enabling legislation. Before the World War of 1914, the increase in executive tariff powers was chiefly due to the growing complexity of import tariffs resulting in large measure from a marked expansion in the number of commodities produced and entering international trade. After the war unstable economic and political conditions gave further impetus to the transfer of power to the Executive; and by August 1939 the national legislatures in most countries had empowered the Executive to modify import duties, although often under specified conditions or within limits prescribed more or less definitely by law. These delegations of power differed widely in scope in the various countries, ranging from narrowly limited authorizations to virtually unlimited executive discretion. The European war, which began in September 1939, has brought about the introduction of emergency tariff powers in many of the countries most directly affected.

Significance of legislative approval.

In most countries the Executive, without waiting for legislative approval, may put into effect tariff changes of greater or less scope. In some cases, no legislative action is required to continue these changes indefinitely. In other cases, they are regarded as provisional until approved by the legislature. In some countries, however, such approval may be pro forma.

¹ The term "import duties" as used in this report includes in general all import charges, however designated, which function as import duties solely for purposes of revenue, of encouraging domestic production, or of reciprocal bargaining. It does not include punitive rates, fees for services rendered, sliding-scale duties, or import charges specifically levied with a view to compensate excise taxes.

As punitive rates, the following are excluded: Antidumping duties, countervailing duties, anti-depreciated-currency surtaxes, and rates applicable only on commodities produced in or imported from countries considered as discriminating against or as treating unfairly the products or exports of the country in question. Powers to apply such rates are normal functions of the Executive, usually either diplomatic or nondiscretionary, and need not be included in a consideration of legislative delegation of rate-making authority. In fact the Executive in most countries either has had authority to impose such punitive rates as are deemed necessary for the national well-being or could probably obtain such authority without difficulty when occasion might require.

In countries with a cabinet form of government,² where the ministry is an essential part of the legislature and its acknowledged leader in matters of policy, executive tariff changes are virtually assured of legislative approval. The leader of the government in power can depend on a majority in the legislature for support, without which he cannot remain in office. Although tariff powers are often specifically delegated to the head of the state—king, president, or governor—they are in practice exercised by the cabinet. The cabinet often has the power to put into effect tariff changes as soon as a bill proposing them is presented to the legislature, it being likely that measures will pass as presented.³ Legislative approval, therefore, is not a restriction upon executive action comparable with the same requirement under a congressional form of government, where the chief executive may or may not be supported by a majority in the legislature, and even if so supported may or may not be followed on particular measures or details of measures.

In most countries, when legislative approval of executive action is required, a simple majority vote of each legislative chamber is decisive. Under the Constitution of the United States, however, ratification of tariff changes made by treaty requires a majority vote of two-thirds of the Senate. Conversely, the last constitution in Austria required a two-thirds majority of the single legislative chamber to annul emergency tariff decrees of the Executive. Furthermore, in a few countries with a two-chamber legislature, one chamber may overrule rejection by the other of an executive action by approving it with a stipulated increased majority, as in Estonia before that country's incorporation in the Soviet Union.⁴

In Latin-American countries specific powers granted to the Executive by the legislature to put into force duty reductions made by commercial agreement are few in number. This absence of executive authority is natural, since these countries have not generally adopted tariff bargaining as an integral part of their commercial policy. Such powers as are specifically accorded are usually limited in scope or in period of validity, and are frequently allowed to expire without renewal. However, in practice it has usually not been difficult for the Executive to get the assent of the legislature, if required, to such tariff agreements as are concluded.

In some countries the Executive has assumed all legislative functions. In so doing, the Executive may have acted in conformity with the constitution or other laws, or arbitrarily, or by virtue of force, or with a show of legality by a special interpretation of legal powers originally intended for other purposes. At times, the Executive has dissolved the legislature for an unlimited period; at others, the Executive has reduced the legislature to practical impotence by

² The cabinet form of government prevails in the United Kingdom and in the British Dominions (Ire, Canada, Australia, New Zealand, and the Union of South Africa), in France, at least prior to the armistice in June 1940, and in Iceland, Sweden, and Finland, and before German occupation also in Czechoslovakia, Denmark, Norway, the Netherlands, and Belgium. Somewhat similar types of government exist in other countries.

³ Of course, if a measure proposed by a cabinet meets serious opposition in the legislature, it may result in the fall of the cabinet, the formation of another cabinet, and perhaps the failure or modification of the measure. In such case, the duties collected under its provisions are usually retroactively adjusted to conform to the rates eventually determined by the legislature. In countries where the cabinet form of government does not exist, or where in practice it does not function according to the usually accepted criteria, such retroactive adjustments do not usually occur.

⁴ See p. 47.

changing the electoral procedure or by completely remodeling the legislature. Thus, although the legislature may not be abolished, no significance may attach to the distinction between laws enacted by it, executive decrees, and administrative regulations, since the legislature no longer has the power, in practice, to force the revocation of any measures adopted by the Executive. At most only technical details of such measures are debated or amended by the legislature, and its approval of the basic provisions is perfunctory. Indeed, in totalitarian countries that still maintain a legislature, such revocation of administrative measures as occurs is either by order of a higher executive body than the one issuing the order, not because the order is illegal but that it is deemed unwise, or it is by the same executive body as issued the order, because after a period of trial the order proved unworkable or undesirable, or because circumstances changed.⁵

The composition of a legislative chamber is also significant when its approval of executive actions is required. There are three main types of chambers which are sometimes combined, namely, (1) a chamber, the members of which are elected by the people, usually from geographic divisions; (2) a corporative chamber, the members of which are appointed from or elected by business, professional, or political associations; and (3) a chamber composed in greater or lesser degree of persons appointed by the Executive. Appointments to chambers of the second and third types are often by virtue of positions held by the appointee in the government or in some other organization. In states with a single-party system, the Executive, or the party chiefs, often determine what persons shall fill these positions, particularly in corporative states.⁶ The party chiefs usually determine also the actions of the administrative officials, and party organs may even be legally incorporated into the governmental structure, as is the Fascist Grand Council in Italy.

Legislatures usually consist of two chambers,⁷ which fact makes possible various combinations of methods of selection. One chamber may be elected and the other corporative, as in Portugal; or one may be elected and the other largely appointed, as in Yugoslavia and India. The elected proportion of a chamber may vary in different periods according to a definite legal provision, as in Thailand (Siam),

⁵ Among the countries in which the Executive at present exercises virtually all legislative functions, or did so prior to recent foreign occupation, are those indicated in the following lists, which, however, do not include countries in which the legislature has voluntarily conferred emergency powers on the Executive while retaining its fundamental right to control the Executive if occasion requires. No connotations, favorable or unfavorable, are implied by the inclusion of any country in either of these lists. In some countries where the legislature is dissolved, the intention is evident of reestablishing a legislature at some future time. In other countries, where the legislature may be considered as practically without power, a move to develop a truly legislative form of government is or was in progress, as in Ethiopia, or the desire has been expressed of returning to a greater measure of legislative control when deemed feasible in the more or less distant future.

Legislature dissolved: Greece, Latvia, Spain, Bolivia, Brazil, Paraguay.

Legislature has or had only nominal powers: Austria, Germany, Italy, Portugal, Rumania, Soviet Union, Ethiopia.

⁶ A corporative state is one in which industry, commerce, and the government itself are organized more or less on a guild basis. Such organization usually proceeds gradually over a period of years, and the degree attained in various countries may differ substantially.

⁷ In most English-speaking and in Latin countries, the upper legislative chamber is called the Senate, and the lower chamber, either the House of Representatives or the Chamber of Deputies. Where a different terminology is used, or where the foreign term is unrecognizable to English-speaking readers, this report usually gives the foreign name. For exact foreign terms in all countries, see current numbers of the *Political Handbook of the World*, published annually by the Council on Foreign Relations, New York.

which has only one chamber. Again legislative approval may be required from only one chamber, as in Poland and Estonia where the lower chamber, by a specified majority, may override the upper chamber;⁸ or the separate disapproval of both chambers may be required to revoke executive action, as in India.

In a number of countries legislatures have been dissolved during periods of emergency with the intention of their resumption at some future date, usually after the promulgation of a new constitution or of new electoral laws. During these periods the Executive exercises legislative functions; but, when a new legislature convenes, the powers of the Executive may be restricted to those exercised before the dissolution, unless they are superseded by provisions in a new constitution. This governmental expedient is particularly prevalent in Latin-American, Baltic, and Balkan States. The frequent and complex changes in executive tariff powers in many of these countries are in general significant only as examples of the devices of a fundamentally all-powerful executive to clothe self-conferred powers in legal form.

Summary analysis.

As may be observed in the summary table on pages 11-15, showing the situation in August 1939—that is, before the outbreak of the war—the executive branches of most European governments had almost unlimited authority to alter import duties. Although in a substantial number of European countries such changes required approval by the legislature, in some countries this approval was perfunctory.

There was a pause or even a reversal in the development of executive tariff powers in European countries during the prosperous years of the 1920's, partly because the activities of the League of Nations then gave promise of greater political and economic stability, and partly because the currencies of a number of countries had become stabilized.⁹ This pause was followed by a marked increase in executive powers over tariffs during the world economic depression and the subsequent political and military developments. In general this tendency was the greater the more a country was or expected to be involved in war. Conversely there was little or no change in countries that considered themselves remote from such developments. Undoubtedly, however, the trend toward augmenting executive tariff powers would have been

⁸ Some so-called upper chambers are not, strictly speaking, legislative, but rather consultative councils of state, whose decisions may be overruled under certain conditions by the lower chambers.

⁹ In the countries on a paper-currency standard in the years immediately following the World War of 1914-18, the Executive usually had authority, without legislative approval, to adjust import duties, by means of multipliers, to the fluctuations in the national currency. In some countries (as in Italy and Spain where the Executive had broad powers to alter duties by other means) a single multiplier, usually called a gold *agio*, was applied to all rates and was changed at short, regular intervals in exact conformity with the currency depreciation; but, in other countries, the Executive took advantage of this authority in order to change duties more or less at will by applying different multipliers, sporadically altered, to different commodities. Such multipliers were usually called coefficients of increase. The country sections of this report treat this use of coefficients in some detail for a number of countries; in still others where no treatment is given this subject, it may be that the Executive used this authority to some extent in the same way. For most commodities, however, the coefficients employed in the various countries were not fully proportioned to the depreciation.

When the currencies became stabilized in the middle 1920's new tariffs were introduced generally incorporating the existing coefficients in the statutory rates, or the existing coefficients were stabilized either by revoking the executive power to alter them or by allowing it to expire. New laws often conferred on the Executive specific tariff powers, but these and other tariff powers in effect at the time were usually less broad than those assumed by the Executive under the regime of coefficients.

greater in many countries had they not adopted nontariff trade controls to regulate imports. Nontariff trade barriers are almost entirely subject to executive control.

In general, although in lesser degree, the causes affecting executive tariff powers in Europe produced similar results in the countries of other continents.¹⁰ Moreover, the increasing use of nontariff trade controls in many countries served as a stimulus to the establishment or increase of executive tariff powers in other countries which still relied solely or chiefly upon the tariff to regulate imports. Some countries adopted this course in order to strengthen the position of their governments in dealing with countries employing nontariff methods of control. A number of countries introduced double or multiple-column tariffs, and empowered the Executive to use more or less discretion in the application of the various columns of rates against individual countries or on individual commodities.¹¹ In fact, several Latin-American countries resorted to multiple-column tariffs expressly for trade-balancing purposes instead of employing nontariff controls, which usually require more elaborate administrative machinery. By executive trade agreements, the United States gradually built up a second column of conventional rates lower than the rates fixed by the legislature. Although the conventional rates were generalized to most countries, the existence of the higher original rates was of service in diplomatic dealings with a number of countries which so administered their nontariff controls as to discriminate against United States exports.

Before the outbreak of the European War, executive tariff powers were neither so prevalent nor so extended in Latin-American as in European countries; but such measures as the Executive had the authority to put into force seldom required legislative approval, although in some cases a report to the legislature concerning them was required.

In self-governing British countries, as in Latin America, the tariff powers of the Executive were less extensive in August 1939 than in continental Europe; and powers of any scope were usually limited by the requirement of subsequent legislative approval for action taken under them.

Nontariff import controls.

In countries where nontariff trade controls exist, authority to impose and alter them is almost universally granted to the Executive. Since such controls over imports, when employed in a given country, are usually more restrictive than its tariff rates, this report includes brief descriptions of the more important nontariff restrictions in the various countries in order to place in the proper perspective the presence or absence of executive powers to alter import duties. The more important nontariff controls on imports are prohibitions, the requirement of permits, foreign-exchange control, quotas, monopolies, and milling or mixing regulations. In many cases, these controls are used to regulate trade balances, or for retaliatory purposes, or to direct the channels of imports so as to promote the conclusion and subsequent

¹⁰ However, a slight trend away from executive tariff powers is perceptible in Latin America during the years following the world depression.

¹¹ Unless the Executive has discretion in the application of rates in a multiple-column tariff, he acts merely as the administrative agent of the legislature and does not possess independent tariff authority.

enforcement of reciprocal trade agreements sometimes preferential in character. In order to facilitate trade with countries exercising such controls on a considerable scale, other countries pursuing more orthodox trade policies have at times found it necessary to depart from their general practice and to apply similar controls against such countries or to conclude clearing, payment, compensation, purchase, or barter agreements with them.

Countries with foreign-exchange control

<i>European countries</i>	<i>Latin-American countries</i>	<i>Other countries</i>
Portugal, ¹ September 1924 to October 1937.	Uruguay, May 1931.	Turkey March 1930.
Spain, July 1930.	Chile, July 1931.	Iran, March 1936.
Germany, July 1931.	Brazil, September 1931.	Japan, ² July 1932.
Hungary, July 1931.	Colombia, September 1931.	China, March 1938.
Greece, September 1931.	Argentina, October 1931.	Afghanistan, ³ April 1938.
Austria, October 1931.	Nicaragua, December 1931.	Egypt, September 1939.
Bulgaria, October 1931.	Costa Rica, January 1932.	
Czechoslovakia, ⁴ October 1931.	Bolivia, May 1932.	
Estonia, October 1931.	Ecuador, ⁴ May 1932.	
Latvia, October 1931.	Paraguay, June 1932.	
Yugoslavia, October 1931.	Honduras, June 1934.	
Denmark, November 1931.	Venezuela, ⁶ December 1936.	
Iceland, February 1932.	Cuba, ⁷ June 1939.	
Rumania, May 1932.		
Italy, ⁷ September 1931.	<i>British countries</i>	
Lithuania, October 1935.	New Zealand, December 1938.	
Poland, April 1936.	Australia, September 1939.	
Albania, April 1939.	Canada, September, 1939.	
France, September 1939.	Newfoundland, September, 1939.	
Finland, ⁸ October 1939.	Union of South Africa, September 1939.	
Sweden, February 1940.	United Kingdom, September 1939.	
Belgium, ⁹ May 10, 1940.	Eire (Ireland), September 1939.	
	India, September 1939.	
	Burma, September 1939.	

¹ Not restrictive on imports from 1929.

² Not restrictive on imports until 1937.

³ Applies only to receipts from exports.

⁴ Not continuously in effect.

⁵ Not restrictive on imports from February 1937.

⁶ Not restrictive on imports until October 1940.

⁷ Not restrictive on imports from free-exchange countries until early 1935.

⁸ Exchange limitations introduced in 1931 were allowed to expire in the same year. This was the time when Finland went off the gold standard.

⁹ Exchange control introduced on Mar. 18, 1935, was revoked on Apr. 28, following. Belgium devalued its currency during this period.

Foreign-exchange control.—The tabulation above shows the countries where foreign-exchange control is or has been officially in effect. Unofficial control exercised by the banks has existed in some other countries as, for example, in Norway (since September 1931), Switzerland (since May 1940), and Peru. In some countries foreign-exchange control is not employed to restrict bona fide commercial transactions. In others it consists merely in the obligation to sell to a governmental agency the foreign exchange derived from specified exports, and is not essentially a restriction on imports. In still other countries with both foreign-exchange control and import-permit requirements, foreign exchange is issued freely if import-permit requirements have been complied with; consequently, the mechanism of exchange control does not operate directly as a restriction on imports, although the issuance of import permits often depends on the availability of foreign exchange. For a number of countries, the fact that foreign-exchange control is not a direct restriction on imports is indicated by notes.¹² In some other

¹² Only the more obvious cases are so designated.

countries the control may be merely partial in that it applies only to transactions exceeding a specified amount, as for a time in Japan and Portugal, or to transactions in specified currencies, as in some British countries where transactions with sterling-currency countries are not controlled. In a few countries control was exercised unofficially by the banks for some months prior to official introduction, as, for example, in Austria and Bolivia; and in some other countries the control was not restrictive on imports until a month or so after its official introduction. A single date in the tabulation indicates that exchange control introduced officially at that time has since been continuously in effect.

Import-permit requirements.—In most countries employing foreign-exchange control, some type of permit is required to pass imports through the customs or to obtain foreign exchange for payment at favorable exchange rates or without undue delay. Usually such a requirement is merely a concomitant of exchange control. A few countries, however, have employed permit requirements to regulate imports prior to the introduction of foreign-exchange control. Among these, with the dates when permits were first required, are Poland, 1928; Hungary, October 1930; Iran, February 1931; Belgium-Luxemburg, July 1931; Lithuania, December 1932; and Australia, 1936.¹² In other countries import-permit requirements, although accompanying foreign-exchange control, have constituted an independent restriction on imports as, for example, in Austria and Czechoslovakia beginning in early 1932, in Germany since 1934, and in New Zealand since December 1938. In fact, in Austria and Czechoslovakia this restriction eventually became the chief method of import regulation although exchange control continued in effect.

Because of the European war, a number of countries have introduced sweeping import-permit requirements since August 1939, usually in conjunction with foreign-exchange control. Among these may be mentioned the United Kingdom, Canada, India, Burma, France, the Netherlands, Finland, and Sweden. A small number of countries have import-permit requirements for only a few commodities, as Brazil for petroleum, El Salvador for cotton, and Norway (prior to German invasion) for a small list of commodities. Some countries, particularly in the Balkan Peninsula and neighboring areas, have developed a complex system for the quantitative regulation of imports in which foreign-exchange control, import-permit requirements, import quotas, and in some cases differential exchange rates, overlap and supplement one another in a veritable tangle of regulations. Among such countries may be classed Poland (before the war), Rumania, Bulgaria, Turkey, Greece, and Italy.

Import quotas.—Countries employing foreign-exchange control, import-permit requirements, or a combination of the two, often fix quotas for the allotment of exchange or of import permits. Under these conditions the quotas are merely a mechanical guide in the administration of the more fundamental restrictions and are apt to be arbitrary, secret, and subject to frequent changes. Although at times quotas of this sort are allotted proportionally to recognized importers on the basis of previous imports, any allotment by countries is usually based on the current

¹² In Australia the number of commodities affected was small.

balance of trade or availability of exchange, or is the result of bilateral bargaining. A number of countries, however, have used import quotas more or less systematically as an independent or as the only means for the quantitative regulation of imports. Some States (France, the Netherlands, Spain) originally employing a definite system of quota allocation by countries on the basis of previous trade, subsequently fixed additional quotas for certain countries by bargaining while reducing the quotas allotted in accordance with the original system. Among countries employing, to a greater or less extent, quotas as a separate means of import control, are the following, with the dates when quotas were introduced:

France.....	1931.
Netherlands.....	1932. ¹
Spain.....	1932 to Civil War.
Switzerland.....	1932.
United Kingdom.....	1932 to September 1939.
Albania.....	1934. ²
Eire (Ireland).....	1934.
India (cotton piece goods from Japan).....	1934.
Peru (some Japanese textile products).....	1936.
Venezuela (some cotton goods).....	November 1938.

¹ Until occupation by Germany.

² Until occupation by Italy.

Like foreign-exchange control, import quotas are usually administered by means of permits.

Other nontariff import controls.—Some countries (the Soviet Union, Iran, and formerly Estonia) have complete governmental import monopolies covering all commodities; but, except in the Soviet Union, they serve chiefly as a legal basis for the administration of import-permit systems. Fiscal and other monopolies and milling and mixing regulations for individual commodities¹⁴ are too numerous to mention in detail. Many countries have clearing, compensation, and barter agreements. Practically every country has some import prohibitions; these usually apply to commodities considered deleterious, and for other commodities they are usually mitigated by the issuance of import permits.

Introduction to summary table.

The table on pages 11-15 summarizes the more important discretionary powers of the Executive to change the regular duty treatment, including regular duty surtaxes, accorded to imports in countries with independent tariff jurisdiction. Authority to apply other import charges, particularly punitive rates such as retaliatory and antidumping duties, is excluded. Generally speaking, executive authority to determine valuations for duty purposes, or to adjust duties to currency fluctuations, is not included, especially where such authority is exercised periodically in accordance with criteria established by the legislature. The table proper shows the situation as of August 1, 1939, before the great extension of executive powers in many countries as a result of the war. Important changes occurring after August 1939 through most of 1940 are generally indicated in a column headed "Remarks." For countries that have recently lost their independent tariff jurisdiction,

¹⁴ For example, the requirement of using for milling flour a stipulated amount of grain produced in the country, or of mixing alcohol produced in the country with gasoline (mostly imported) for motor fuel.

the table shows the situation prior to this loss, with indications in the "Remarks" column of changes that occurred after August 1, 1939, and before a loss of tariff jurisdiction subsequent to that date.

Executive powers to put into force tariff changes may be roughly classified in four categories as regards dependence on the legislature. Thus, arranged in order of increasing dependence, executive enforcement of tariff changes (1) is not subject to any legislative check, (2) must merely be reported to the legislature, (3) is provisional or temporary and requires legislative approval for definitive or continued validity, or (4) requires prior legislative approval. Since in the fourth case, the powers of the Executive are, at most, limited to the submittal of proposals to the legislature, these powers are not indicated in the table.¹⁵ The first three categories are indicated in the table by the symbols ***, **, and *, respectively, that is, the more asterisks the greater the power of the Executive.

The third category, that requiring legislative approval for continued or definitive validity of tariff changes put into effect provisionally by the Executive, has several variations. Thus, in countries with the cabinet form of government, this approval may usually be regarded as assured, although sometimes a measure put into effect by the cabinet causes the cabinet to fall.¹⁶ In other countries, legislative approval is largely or wholly perfunctory, either because the political organization is such that the Executive dominates the decisions of the legislature or that the chiefs of a single party dominate both the Executive and the legislature, or because the composition of the legislature is largely controlled by the Executive or single-party chiefs. Several instances of this sort, admitting of little doubt, are indicated in the "Remarks" column of the table; and there may be others.

Another differentiation, not indicated in the table, rests on the amount of initiative required on the part of the legislature.¹⁷ When a time limit is placed on the validity of executive measures, the legislature may allow such measures to expire without taking any action itself. On the other hand, a time limit sometimes contains a provision precluding previous revocation by the legislature; and, if the limit is sufficiently long, the Executive has substantial freedom of action despite the fact that eventual legislative approval is required. Usually, there is no such time limit, but since an executive measure must be definitely submitted to the legislature for approval, parliamentary procedure presumably requires legislative consideration and a vote. In a few cases, the executive measures remain in effect until the legislature revokes or amends them by a law of its own initiation. The two extremes are, therefore, that legislative inaction assures the expiration of an executive

¹⁵ In all countries with a cabinet form of government, the Executive has a fundamental or constitutional right to propose specific tariff changes, and, probably in all countries, the right to suggest general tariff revisions. Moreover, in practically all countries, regardless of type of government, the Executive has the right to negotiate tariff agreements and to submit them to the legislature for approval. Turkey may be cited as an exception, where the legislature is vested with the fundamental right to negotiate with foreign states. In a given country the Executive may, of course, have broader constitutional or delegated powers, which then fall under the first three of the categories mentioned above.

¹⁶ In some governments of this type the Executive has the power to increase rates when a bill to this effect is introduced in the legislature, but if the bill is rejected the additional duties collected must be refunded. Although such powers are not a definitive delegation of legislative authority, they are, nevertheless, included in the table.

¹⁷ See individual country sections for details.

measure at the end of a specified period or permits its continuing validity.

The tariff powers of the Executive are often limited in ways not related to the question of subsequent legislative approval. The table aims by the use of appropriate columns to classify these limitations roughly under three heads, as follows:

(1) Limitation as to the amount by which a duty may be changed, for example, by a given percentage or fraction of itself, or within definitely specified figures, such as the fixed rates of a multiple-column tariff. If a surtax or additional duty may be increased by the Executive without limit, there is obviously no upper limit to the amount of the combined duty (basic rate plus surtax) which may be levied, but even though such an additional import charge may be entirely removed by the Executive, the basic rate remains as a lower limit to its action. Consequently, the table always shows the power to remove such additional charges in a column for reductions limited in amount.

(2) Limitation as to the purpose for which a duty may be changed by the Executive. In the table, the interpretation of purpose is very broad, including all types of conditions or contingencies. Thus, the limitation of tariff powers to such broad categories as raw materials, necessities, or luxuries, without specification of individual commodities, is considered a limitation in respect of purpose. On the other hand, the legally stipulated conditions for some tariff powers are so broad, or are interpreted so broadly by the Executive, as to make such powers unlimited in practice; in these cases, therefore, the powers are indicated in the table as unlimited. Examples of such broad conditions for duty changes are that the changes should be economically justified, or in the public interest, or warranted by extraordinary circumstances of social necessity.

(3) Limitation of tariff powers to particular commodities, specified either by name or by tariff numbers. Commodities may be specified indirectly by the exclusion of designated commodities from an authorization, which consequently applies only to commodities not so designated. Cases where certain specified items in a tariff schedule have alternative rates applicable at the discretion of the Executive fall under this head, but powers to apply the various columns of a professedly multiple-column tariff are not considered as limited with respect to commodities although some, perhaps many, of the tariff numbers may not have multiple rates. Another case herein considered as a commodity limitation is one in which a number of tariff rates are designated in a particular manner and the executive powers apply only to the rates so designated, such as "protective duties" in India, "starred duties" in Finland, and other than "revenue duties" in the United Kingdom; the number and importance of such duties may be substantial.

If a given power is limited in more than one way, the symbols indicating this power are placed in all the relevant columns of the table but are enclosed in parentheses in all columns except the first in which they occur. This device is used in order to obviate giving the impression that the Executive has a greater number of powers than it possesses in reality.

Summary table of principal executive powers, as of Aug. 1, 1939, to enforce import-duty changes without prior legislative approval, in countries with independent tariff jurisdiction

[Symbols: ***=there is no legislative check; **=merely a report to the legislature on action taken is required; *=enforcement is provisional or temporary, but for definitive validity legislative approval is required. For the significance of symbols in parentheses see preceding text]

Country	Changes unlimited			Changes limited as to—							Remarks	
				Amount			Purpose		Individual commodities			
	Autonomous increases	Autonomous reductions	Conventional reductions	Autonomous increases	Autonomous reductions	Conventional reductions	Autonomous increases	Autonomous reductions	Autonomous increases	Autonomous reductions		Conventional reductions
United States.....				***	***	***	(***)	(***)				Autonomous changes: (1) In accord with findings of Tariff Commission on change needed to equalize production costs; or (2) to protect certain agricultural programs.
British Empire:												
United Kingdom.....									.	.	.	Applies to all except revenue duties. Emergency powers granted Aug. 24, 1939.
Eire (Ireland).....	.	.	.					***				Exemptions for necessary materials for manufacture do not require legislative approval.
Preferential tariff.....					***							Can determine countries to which preferential tariff is applied.
Canada.....	.	.	***					***				Autonomous increases subject to refund if disapproved.
Multiple tariff provisions.....		***		***								Purpose limitation is to combat excessive prices.
Valuation procedure (see p. 32).....				***								Some powers rarely used (see p. 30).
Newfoundland.....	***	***	***									Emergency powers granted Sept. 16, 1939.
Union of South Africa.....								***				Powers indicated are those since voluntary relinquishment of tariff jurisdiction in 1934. Executive is appointed and controlled by the United Kingdom.
Multiple tariff provisions.....						***		***				With respect to materials for industry.
Suspended duties (see p. 97).....				***			(***)		(***)			Autonomous application is to combat internal unfair practices.
India—Burma.....		***	***						***	***		To foster economically sound domestic industries.
												Unlimited power: Used in urgent cases. Specified commodities: Those subject to rates designated in the tariff as protective.

Summary table of principal executive powers, as of Aug. 1, 1939, to enforce import-duty changes without prior legislative approval, in countries with independent tariff jurisdiction—Continued

Country	Changes unlimited			Changes limited as to—								Remarks	
				Amount			Purpose		Individual commodities				
	Autonomous increases	Autonomous reductions	Conventional reductions	Autonomous increases	Autonomous reductions	Conventional reductions	Autonomous increases	Autonomous reductions	Autonomous increases	Autonomous reductions	Conventional reductions		
British Empire—Continued.													
Australia.....	.	.		***	***								Increases subject to refund if disapproved.
Multiple-tariff provisions.				***			(***)		(***)				If domestic production is adequate.
Deferred duties (see p. 21).					***					(***)			
By departmental by-laws.				***	***								Primage may be entirely removed.
Primage duty (see p. 22).													
New Zealand.....								Increases subject to refund if disapproved. Surtax may be entirely removed.
Multiple tariff provisions.					.								
Import-duty surtax.				***					(***)	(***)			Primage is applicable only to duty-free commodities; may be entirely removed.
Primage duty (see p. 78).		***						(***)		***			Purpose: Chiefly to combat excessive prices.
Powers of Minister of Finance.													
Western Europe:													
Portugal.....	.	.	.						***				Approval of legislature required only if in session. Purpose limitation: In exceptional and "legally justifiable" cases. Emergency powers granted on Sept. 7, 1939.
Import-duty surtax.	***				***								Surtax may be entirely removed.
Spain.....	***	***	***										Executive exercises legislative functions.
France.....	***	***	***										Extraordinary powers, which expired Nov. 30, 1939; unlimited emergency powers granted Dec. 8, 1939. Normal powers are very complicated. Legislative approval is perfunctory.
Italy.....	.	.	.										To combat price increases.
Powers of head of Government.									***				
Switzerland.....	**	**	.						***				Agreements may be enforced provisionally. Temporary duty increases for revenue purposes do not require report to the legislature.

Belgium-Luxembourg.....	•	•	•												Increases subject to refund if not approved, but legislative approval is largely perfunctory. Emergency control of foreign trade established Aug. 25, 1939.
Netherlands.....	•	•	•												
Import sales tax.....	•••	•••	•••		•••			(•••)							Complete removal for essential raw materials.
Germany.....															Autonomous changes formerly revocable by Federal Council, which was abolished in 1934.
Scandinavian States:															
Denmark.....					•••			(•••)		(•••)					Removal or reduction of tariff increases which have caused unjustifiable price advances.
Iceland.....											•••				Lower refers to lumber. Other very limited powers presumably have expired, but there is foreign-exchange control.
Norway.....								•••							To aid industrial development or consumers of articles not effectively produced in Norway.
Sweden.....		•••		•						•••					Specified commodities are cereals. Other increases permissible only during recess of legislature.
Northeastern Europe:															
Finland.....	•			•••	•••	•••		(•••)	(•••)	(•••)					Commodities are specified in the tariff. Unlimited increases subject to refund if disapproved.
Estonia.....	•••	•	•												Legislative approval was undoubtedly perfunctory.
Latvia.....	•••	•••	•••												Executive exercises legislative function.
Lithuania.....	•	•	•												During recess of legislature; valid until altered by legislature, but legislative acquiescence probably assured. Requirement of legislative approval was removed by law of Sept. 18, 1939.
Poland.....	•••	•••	•••												Conventional reductions limited, at least in theory, to urgent cases.
U. S. S. R. (Soviet Union). Danubian and Balkan States:	•••	•••	•												Treaty ratification, wholly perfunctory, is by a permanent committee of the legislature.
Austria.....	•	•	•												Legislative approval was perfunctory. Two-thirds majority of the legislature was required to nullify autonomous tariff changes.
Czechoslovakia.....	•••	•••	•												Autonomous powers from enabling act subsequent to Sudeten cession.
Hungary.....			••					••	••						Autonomous increases: To aid important Hungarian industries; autonomous decreases: For consumers' or producers' necessities.
Rumania.....	•	•	•								•				Unlimited powers: Only during recess or dissolution of the legislature. Specified commodities: Alimentary.
Yugoslavia.....	•	•	•												Legislative approval probably perfunctory.
Bulgaria.....			•		•••			(•••)			•••				From September 1939, legislative approval not required when legislature not in session.
Albania.....	•														Autonomous reductions are to combat excessive prices or to foster specified industries.
Greece.....	•••	•••	•••												As soon as submitted to legislature. Since customs union with Italy of Apr. 21, 1939, the Italian system obtains.
															Executive exercises legislative functions.

For symbols, see head of table on p. 11.

Summary table of principal executive powers, as of Aug. 1, 1939, to enforce import-duty changes without prior legislative approval, in countries with independent tariff jurisdiction—Continued

Country	Changes unlimited			Changes limited as to—									Remarks
				Amount			Purpose		Individual commodities				
	Autonomous increases	Autonomous reductions	Conventional reductions	Autonomous increases	Autonomous reductions	Conventional reductions	Autonomous increases	Autonomous reductions	Autonomous increases	Autonomous reductions	Conventional reductions		
Asia:													
Turkey.....	.	.	.										Legislative approval is perfunctory. Law of Jan. 26, 1940, authorized far-reaching control of foreign trade in case of war or mobilization.
Arab States.....	***	***	***						***				Such legislatures as exist are merely consultative.
Iraq.....				***									Wheat and barley in case of shortage.
Iran (Persia).....						***				(***)			Autonomous increases: On imports previously prohibited but subsequently controlled by quotas. Conventional reductions are illusory. Legislature rarely opposes executive proposals.
Afghanistan.....	.	.	.										In cases of emergency.
China.....	.	.	.										In cases of emergency. Approval usually perfunctory.
Thailand (Siam).....													Half the members of the legislature are appointed by the King. Import quotas introduced in 1940.
Japan:													
Emergency powers.....	***	***											By National Mobilization Law of Mar. 24, 1938.
Constitutional powers.....	.	.	***										Autonomous changes: During recess of legislature. Conventional reductions: Approval of Privy Council customarily required.
Africa:													
Egypt.....	***	***							.				Unlimited powers are temporary until the long delayed enactment of a new tariff.
Ethiopia (Abyssinia).....	***	***	***										Legislature was merely advisory.
Liberia.....					***	***			(***)				Autonomous decreases: In recognition of favorable treatment for Liberian products.
Latin North America:													
Mexico.....									***				In case of local scarcity or public distress, and by law of Feb. 17, 1940, also to foster new industrial enterprises.
Cuba, multiple-tariff provisions.....					***	***			(***)				May apply lowest-column rates of trade-balancing multiple tariff on necessities or by agreement. Legal validity of broader powers is questioned.
Haiti.....	**	**	**										Prior approval of a permanent legislative committee is required for unlimited changes.
Multiple-tariff provisions.....					***	***							Autonomous application of lower-column rates is conditioned on nondiscriminatory treatment and amount of trade.
Dominican Republic.....						***							Only with respect to internal taxes levied on imports.

Central America:										
Guatemala.....	.	.								
Multiple-tariff provisions.....					***		(***)			Unlimited changes permitted only during recess of legislature.
El Salvador, multiple-tariff provisions.....					***		(***)			Necessities may be exempted from trade-balancing surtax.
Honduras.....										May apply lower-column rates of trade-balancing multiple tariff on necessities.
Nicaragua.....										No tariff powers, but the executive controls foreign exchange.
Costa Rica.....				***			(***)			No powers, except to adjust duties to currency depreciation. Former tariff agreement powers expired on Sept. 17, 1939.
Panama.....								***		Only with respect to dispensable articles considered as luxuries. Broader powers formerly in effect apparently no longer exist.
South America:										Insofar as justified by revenue from new direct taxes, or on commodities not produced locally, in order to encourage tourist purchases.
Argentina.....						***				Law of Sept. 7, 1939, and budget law for 1940 authorize suspension of a surtax for specified commodities.
Brazil:										
Transitory powers.....	***	***	***							Until plebiscite on new constitution and election of a new legislature.
Permanent powers.....			.				.			Autonomous reductions are temporary to combat excessive prices or to foster regional development.
Chile.....			.	***	***		(***)	(***)		Autonomous reductions: For necessities; autonomous increases: For articles produced locally in adequate supply.
Uruguay.....				**			(**)	**		Purpose limitations: Based on ability of domestic producers to supply the demand.
Proportion of duty payable in gold equivalent.....				**						
Paraguay.....				**	**					
Bolivia.....	***	***	***							But executive has exercised legislative functions since dissolution of legislature on Feb. 17, 1940.
Peru:										Executive exercises legislative functions.
Powers in August 1939.....	***	***	***							Executive exercised legislative functions until convening of new legislature on Dec. 8, 1939.
Powers in May 1940: By advice of tariff board.....	**	**								
Other powers.....								***		
Ecuador.....	***	***	***							To combat excessive prices of necessary foodstuffs. Executive exercised legislative powers. New legislature, convened Aug. 10, 1939, granted emergency powers on Sept. 1 following, but from November 1940 required legislative approval.
Colombia.....										The executive has limited power of a punitive type.
Venezuela.....	**	**	**							There are various more limited special provisions.

For symbols, see head of table on p. 11.

Remarks concerning sections on individual countries and sources.

The body of this report consists of separate sections on individual countries arranged in alphabetical order. The treatment of the various countries is fairly uniform by reason of precise limitations of scope adopted for the report. In certain countries, however, conditions differ so radically from those in most countries as to warrant different methods of approach. In particular, the section on Germany goes behind the legal powers cited as a basis for decrees altering import duties to describe the ultimate basis of governmental power. This description may well be read in conjunction with the sections on other countries having a similar type of government. For some countries matters, strictly speaking, outside the scope of the report have been included because they are considered of great importance in those countries, such as monopoly fees in the Netherlands and official valuations in Canada. Also powers of very limited extent are more fully treated in countries where important powers are lacking than in countries where the Executive has more extensive powers.

The length of treatment for the various countries depends to a considerable degree on the number and intricacy of the tariff powers delegated to the Executive, and not primarily on the economic importance of the countries concerned. Furthermore, the detail in which the different powers are described is determined to some extent by the adequacy of available data.

In general, reliable secondary sources of information are cited, usually in addition to primary sources, because these secondary sources are more readily available to the public. The chief secondary sources for most or all countries are a series of consular reports supplied in answer to a special questionnaire prepared by the Tariff Commission, special circulars on foreign-exchange restrictions issued by the Finance Division of the United States Department of Commerce and by various American commercial banks, United States Commerce Reports (Foreign Commerce Weekly since October 5, 1940), the Deutsches Handels-Archiv,¹⁸ the Statesman's Year-Book, and the Political Handbook of the World. Information concerning the general governmental set-up in the various countries is derived almost exclusively from the last two publications, which, to avoid continual repetition, are not cited in the text except in particular cases.¹⁹ The consular reports have, in general, not been cited, because they are not readily available to the public. Wherever these reports give primary sources, such citations are included, and in some cases these and primary sources actually used are supplemented with parallel citations to readily available secondary sources. In general, citations are not included for nontariff import controls because the discussion of these controls is so summary in character.

¹⁸ Especially for continental Europe, the Deutsches Handels-Archiv is used in preference to secondary sources in English, because it is more complete and more conveniently indexed. The Handels-Archiv is a periodical, published by the German Ministry of Economics, which aims to include texts in German of all important measures affecting foreign trade (including international agreements) enacted in countries other than Germany itself.

Occasionally the Legislativer Informationsdienst is used. This service, published by the Foreign-Trade Bureau (Vienna) of the Austrian Chambers of Commerce, also gives German translations of commercial measures in many European countries. It is more complete than the Handels-Archiv for the countries it covers, but has no index.

¹⁹ This report generally gives the names of the legislatures in the various countries, except names that are in prevalent use (such as Congress, Parliament, Senate, House of Representatives, Chamber of Deputies), and are also easily recognizable in the foreign spelling.

INDIVIDUAL COUNTRIES
WITH
INDEPENDENT TARIFF JURISDICTION

INDIVIDUAL COUNTRIES WITH INDEPENDENT TARIFF JURISDICTION

AFGHANISTAN

The King of Afghanistan has the right to make emergency laws, including tariff laws, subject to confirmation by the legislature.

Partial foreign-exchange restrictions have been in effect since April 1938: Exchange derived from exports of lambskins must be sold to the National Bank and part of it is allotted to importers by means of import permits granted on a quota basis.

Government monopolies control imports of automobiles, sugar, and petroleum products.

ALBANIA

Prior to Italian occupation in April 1939, the situation in Albania was as follows: The Executive could put into force proposals for increases in import duties at the time they were submitted to the legislature for approval. Reductions of duty in commercial agreements required prior legislative approval.

A law of February 21, 1934, authorized the Minister of National Economy to introduce quantitative import controls. Import-permit requirements and quotas, rather liberal in character, were subsequently applied to products of countries whose imports from Albania represented less than 70 percent of their exports to Albania.

At present Albania forms a dual monarchy with Italy. A customs union with Italy was formally established on March 1, 1940, by virtue of an Italo-Albanian convention signed April 21, 1939. The former Albanian tariff was abolished and the Italian tariff system applied. Foreign-exchange control has been in effect since April 1, 1939.

ARAB STATES ¹

The various native States of the Arabian Peninsula have in general an absolutist form of government with legislative powers exercised by the Executive.

The most important State, Saudi Arabia or the Kingdom of the Hejaz and of Nejd, is provisionally a dual monarchy. The Nejd Government is absolutist, but the Hejaz has a constitution, issued on August 29, 1926, which provides for a consultative legislative assembly, the members of which are officials and notables nominated or approved by the King.

In Kuwait there is a council of 14 elected notables presided over by a cousin of the present ruler.

Information is not available concerning the exact powers of these legislative bodies or the manner in which import duties are determined.

¹ Source: The Statesman's Year-Book, 1939.

ARGENTINA

In Argentina the Executive has for about 40 years had authority to reduce tariff rates within prescribed limits by commercial agreement. On September 7, 1939, the legislature authorized the Executive to suspend additional duties autonomously on specified articles of first necessity.

Argentina has foreign-exchange control, differential exchange rates, arbitrary exchange quotas, and global import quotas for petroleum products.

Autonomous tariff powers.

An additional import duty of 10 percent ad valorem was introduced by a provisional government in 1931 and extended annually by legislative action until the 1938 budget law fixed no time limit for its application. A law of September 7, 1939,² authorizes the Executive, without legislative approval, to suspend the application of this duty on specified articles, mostly articles of mass consumption, and to fix maximum retail prices thereon. Furthermore, the budget law for 1940,³ empowers the Executive, without legislative approval, to suspend this additional duty on automobiles, and automotive parts and accessories.

Trade-agreement powers.

The tariff law of November 29, 1923,⁴ empowered the Executive, without legislative approval, to reduce import duties by not more than one-half in return for equivalent advantages in commercial agreements, but such reductions must be terminable on not longer than 6 months' notice. For duty reductions exceeding one-half, previous legislative approval of the relevant agreements is required.⁵

Nontariff import controls.

Argentina has had rigid exchange control since October 1931. After November 10, 1933, importers were required to procure advance exchange permits in order to obtain the favorable rate for official exchange, which was sold only to holders of such permits. Imports for which advance permits were not granted were financed at unfavorable open market rates. Effective December 31, 1938, the advance permit requirement was extended to all imports.

On August 22, 1939, the open market exchange rate for import purposes was abolished, and two official rates were established. The more favorable of these two official rates was reserved chiefly for products considered essential to Argentina, and for practically all products imported from certain countries with which Argentina had preferential agreements. After September 1939, the same exchange rate applied to a given product (except coal) regardless of the country of origin. Such exchange quotas as are allocated by countries are usually stated in percentages of imports in an earlier period, the percentages varying from country to country. The quotas also specify which of the two official exchange rates is applicable.

² Summarized in U. S. Commerce Reports, October 7, 1939, p. 808.

³ Law No. 12599 (summarized in U. S. Commerce Reports, December 9, 1939, p. 1150).

⁴ Law No. 11281, art. 76. This authorization was first introduced by law No. 3672 of January 3, 1898.

⁵ Constitution of 1853, art. 67, sec. 19.

In July 1936, the Government adopted regulations providing for the rigid control of imports of all petroleum products by the Yacimientos Petrolíferos Fiscales (the Government-owned oil administration) and authorized that organization to establish a system of import quotas. Global quotas have been fixed quarterly and distributed among importers who hold permits issued by the oil administration. A decree of February 27, 1940, authorized unlimited importation of fuel oil up to September 30, 1940, without prior permits from the oil administration, but prohibited the use of such imports as raw material in the manufacture of other products. In November 1940, imports of fuels and petroleum derivatives for direct consumption were made contingent upon the purchase of domestic corn for use as fuel from the Argentine Grain Board.

AUSTRALIA

In Australia the Executive has various powers to alter import duties autonomously, including that to enforce immediately proposed increases, to apply "deferred" increases in rates, to reduce rates under departmental bylaws, to assess ad valorem revenue surtaxes, and to apply the various columns of a multiple-column tariff. Australia has a system of foreign-exchange control, and of import-permit requirements combined with proportional importers' quotas.

Autonomous tariff powers.

By virtue of the Customs Act (sec. 226), the Executive may immediately put into force increased rates proposed to the legislature in any tariff amendment, in order to protect the revenue by preventing increased imports in anticipation of the increased duties. Legislative approval, however, must be obtained either before the close of the session in which the amendment is introduced or before the expiration of 6 months, whichever period is the shorter. If the increases are not approved the additional duties collected are refunded, unless the legislature has legalized them by a validation act, which is the customary procedure.

The legislature has granted to the Executive discretion in applying (1) the preferential rates to British non-self-governing colonies;⁶ (2) the intermediate rates to either British or non-British countries;⁷ (3) duty preferences contemplated for Canada and New Zealand;⁸ (4) a number of additional duties, called deferred duties, which are provided in the tariff;⁹ and (5) reduced duties on a number of commodities within limits specified in the tariff schedule (these reductions are effected by so-called departmental bylaws).¹⁰

The date on which each deferred duty is to take effect is stipulated in the tariff, but the Minister for Trade and Customs must refer the question of applying it to the Tariff Board.¹¹ If the Board reports

⁶ Customs Tariff 1933-36, sec. 9.

⁷ *Ibid.*, sec. 9A.

⁸ Customs Tariff 1933-34 (New Zealand Preference), sec. 5, and Customs Tariff 1931 (Canadian Preference), sec. 9.

⁹ Customs Tariff 1933-36, sec. 12.

¹⁰ See Customs Act 1901-36, sec. 139.

¹¹ The Board was established by Act No. 40 of 1921 (Commonwealth Acts, vol. 19, p. 65), which has been amended several times, most recently by Statute Law Revision Act, No. 45, of 1934 (Commonwealth Acts, vol. 32, p. 110). Its advice must be sought also on proposed duty changes and on proposals for the application of the British preferential and intermediate tariffs.

that the commodity in question will not be produced in Australia in reasonable quantities by the stipulated date, the Minister may postpone the application of the deferred duty until the Tariff Board reverses its report.

Departmental bylaws reducing import duties may be issued by the Minister for Trade and Customs upon application by the parties concerned. The principal criterion followed in refusing application is whether the commodity in question is produced commercially in Australia or in the United Kingdom, or could be so produced in Australia. There are permanent bylaws and bylaws valid only for a single day, that is, while a contemplated consignment is being unloaded. A 1-day bylaw reducing the duty on a given commodity is not repeated if after inspection of the resulting import it is considered that the production in Australia of this specific type of commodity is commercially practicable.

An act of 1934 imposing on most imports additional revenue duties of 4, 5, or 10 percent ad valorem, called primage duties, authorized the Executive to exempt commodities¹² or to subject commodities already exempt to the lower primage duties (4 or 5 percent ad valorem).¹³

Tariff-agreement powers.

Although the Executive may exercise the relevant powers described above to put into effect reductions stipulated in commercial agreements, it is the current practice to obtain legislative approval before doing so.

Nontariff import controls.

A general system of import-permit requirements has been in force since December 1, 1939, for imports from nonsterling countries,¹⁴ and on May 1, 1940, such requirements were extended to certain goods from sterling countries as well. Permits are allotted to importers in proportion to the volume of their imports in a prior period, but the allotments have been progressively reduced. Similar measures have been in effect since May 1936 for unassembled motor-vehicle chassis. Other permit requirements were previously in effect for limited periods beginning in 1930 and 1936. Import transactions in excess of £5,000 have recently been subjected to foreign-exchange control, but exchange is freely issued if import-permit requirements have been met.

AUSTRIA

Prior to the annexation of Austria by Germany in March 1938, the Executive under the 1934 Constitution possessed powers to alter import duties, both autonomously and in tariff agreements, practically without limit and subject merely to nominal approval by the legislature. From the formation of the Austrian State after the World War, the tariff powers of the Executive had undergone a marked expansion, which may be analyzed on the basis of three distinct political periods, namely, that of the Republic until March 1933, that of transition,¹⁵

¹² See Commonwealth of Australia Gazette, No. 84, September 22, 1939, for application of this authority.

¹³ See Commonwealth of Australia Gazette, No. 77, September 14, 1939, for application of this authority.

¹⁴ In 1940 the products of the following countries were freed from this restriction: France (May 31, revoked July 23), Iraq (June), Netherlands Indies (July 22).

¹⁵ During this period the strictly legal powers of the Executive were greatly enhanced by the fact that members of opposing parties were forced to withdraw from the legislature.

and that of the corporative state after May 1, 1934. Austria had quotas and import-permit requirements, and also foreign-exchange control, which, however, was gradually relaxed for commercial transactions.

Powers under the Republic.

The customs law effective July 1, 1920,¹⁶ authorized the Executive to reduce or remit duties conditionally on those raw materials or semi-manufactures, designated by executive order, for which such special customs treatment was not provided in the tariff itself, but for which it was found to be required by the situation of the competing Austrian industry. In either case, entries were subject to executive control by a permit system and limited by the requirement of a specified use in manufacturing establishments under customs supervision. Executive orders introducing such conditional exemptions or remissions of duty required the prior approval of a designated legislative committee and submittal to the entire legislature immediately if in session, or, if not, at its next session. Any action had to be revoked if so demanded by the legislature.

A law of March 18, 1926,¹⁷ authorized the Executive to change the rates of the autonomous tariff when domestic production was seriously threatened by imports or when necessary for reasons of commercial policy. The prior approval of the legislative committee was required, and, if one-fourth of its members so demanded, also the prior approval of the entire legislature.

A law of July 9, 1931, reenacted three times,¹⁸ authorized the Executive with the prior approval of the legislative committee, to put into effect temporary tariff reductions in commercial agreements. This power finally expired on October 15, 1932.

A law of July 17, 1931,¹⁹ authorized the Minister of Finance to reduce or to remit the import duties on commodities that might be subjected to import-permit requirements by virtue of this law. The primary purpose of this law was to give the Executive means to promote exports to countries with which Austria had no commercial agreements.

Powers during the transitional period.

The powers indicated above were generally not used by the Executive after February 1933. Beginning in March 1933, because of a parliamentary deadlock and an unusual political situation, the Dollfuss Cabinet invoked broad wartime powers which had been granted by a law of July 24, 1917, to the Executive of the Austro-Hungarian Empire, in order to change tariff rates at will and to enforce provisionally duty reductions in commercial agreements. This law was expressly valid only "for the duration of the extraordinary conditions due to the war." Measures taken under this authority had to be submitted to the legislature as then constituted, if in session, no later than at the end of the current calendar quarter, or, if not in session, upon reconvening, and had to be repealed if not so submitted or if rejected by the legislature.

¹⁶ Law of June 10, art. 8 (Staatsgesetzblatt, 1920, p. 481, item No. 250).

¹⁷ Bundesgesetzblatt, March 31, 1926, p. 292, No. 67.

¹⁸ *Ibid.*, July 17, 1931, p. 801, No. 105; December 31, 1931, p. 2274, No. 417; March 2, 1932, p. 122, No. 71; and August 24, 1932, p. 792, No. 238. The last two reenactments required prior legislative approval of measures taken if one-fourth of the committee's members so demanded.

¹⁹ *Ibid.*, July 25, 1931, p. 1147, No. 223.

Powers under the corporative Constitution of 1934.

This period of transition lasting over a year was brought to a close by a new Constitution, effective May 1, 1934, under which Austria was changed from a Republic to a corporative state. The normal procedure for the alteration of import duties under this Constitution was for the Federal Executive to draft bills, refer them to a Federal Council of Economics for an opinion to be submitted within a time limited by the Executive (art. 61), and then submit them to the legislature (Federal Diet)²⁰ for acceptance or rejection within a time also fixed by the Executive (art. 62). The pertinent committee of the Diet could present a counter statement, but further discussion and amendments were not allowed.

The Constitution, however, provided the Federal Executive with emergency powers to issue provisional decrees with the force of law for the protection of important economic interests of the people, or of the government finances—especially for the stability of the budget—in urgent cases when immediate action by the Diet was unlikely (art. 147). Such decrees had to be reported to the Diet without delay and immediately annulled if rejected by a two-thirds vote, but annulment was not retroactive. A provisional decree became void after the expiration of 3 years at the latest, but could be prolonged if the reasons for enforcement still existed.

Although tariff agreements required approval by the Diet, the Federal Executive could put them into effect provisionally by decree, as soon as signed, for a period not to exceed 12 months (art. 68). The Executive could revoke such decrees at any time prior to approval by the Diet, and had to revoke them within an appropriate time if rejected by that body. Rejection of a decree by the Diet, however, was most unlikely.

Nontariff import controls.

Foreign-exchange control, introduced on October 9, 1931, was in time relaxed for commercial transactions. A system of import permits was introduced by a decree of April 28, 1932, combined with import quotas originally based on 1931 imports. This system, with some mitigations, was in effect at the time of German occupation.

BELGIUM-LUXEMBURG

The situation in Belgium-Luxemburg before the German occupation in May 1940 was as follows: The Executive had unlimited powers to alter import duties, either autonomously or in tariff agreements, subject to subsequent legislative approval, which was usually pro forma. Belgium had import-permit requirements and some arbitrary quotas, and had introduced foreign-exchange control in May 1940, just before the occupation.

Belgo-Luxemburg Customs Union.

The Grand Duchy of Luxemburg entered into a customs union with Belgium, effective May 1, 1922.²¹ On that date all Belgian customs

²⁰ Nearly half of the members of the Diet held their positions by virtue of offices to which they were appointed by the Federal Executive.

²¹ By a convention of July 25, 1921, ratifications exchanged March 6, 1922 (League of Nations Treaty Series, vol. 9, serial No. 250, p. 225). See arts. 2, 4, and 27. The duration of this convention is 50 years, and a 10-year notification is required for termination.

measures became applicable also in Luxemburg, but after that date such modifications as the Belgian Government desired to introduce were submitted to a specially constituted Superior Council of the Belgo-Luxemburg Union for its opinion. This council consisted of three Belgian and two Luxemburg governmental appointees. Subsequent tariff agreements were concluded by the Belgian Government on behalf of the Customs Union after consultation with the Luxemburg Government.

Autonomous tariff powers.

Under article 2, still in effect in May 1940, of a law of June 10, 1920,²² the Executive (as constituted by the King and the Cabinet) might, for pressing economic reasons, alter import duties by decree, subject to immediate submittal to the legislature for approval, if in session, otherwise at the next meeting.

Broader powers to revise import duties were conferred from time to time for particular purposes, of which the following are important examples:

For some years after the World War, Belgium employed a system of so-called coefficients of increase for its predominantly specific duties, originally for the purpose of adjusting them roughly according to the depreciation of the Belgian currency. The Executive was authorized to impose and alter the coefficients within prescribed limits, subject only to the requirement of reporting to the legislature immediately if in session, otherwise at the next meeting.²³ The limits were so broad,²⁴ and the coefficients came to represent such large proportions of the total duties levied, that the Executive was able to use this power as a device for effecting substantial duty changes either up or down. This power lapsed in 1930.

Some laws²⁵ introducing tariff increases authorized the Executive also to reduce duties not affected by coefficients down to the previous rates, subject only to report to the legislature as in the case of changes in coefficients.

Widespread increases in import duties were enforced by decree the latter part of 1939 under a law of May 1 of that year, which authorized the King to modify without limit the rates of any regular sources of state income.²⁶ This power was to expire December 1, 1939. Any measures taken had to be submitted to the legislature before December 15, 1939, for approval.

Executive decrees, issued under the foregoing laws and other similar delegations of power, have accounted for substantially all changes of Belgian import duties in recent years. In actual practice, executive decrees were approved by the legislature as a matter of course. Decrees were customarily allowed to accumulate over a considerable period, and all were then approved by a single act of the legislature.

²² Deutsches Handels-Archiv, 1920, p. 427.

²³ See law of June 26, 1924 (Moniteur Belge, 1924, No. 181/182; and Deutsches Handels-Archiv, 1924, p. 1418), and law of June 7, 1926 (Bulletin des Douanes, June 1926, first part).

²⁴ By the law of June 10, 1920, the maximum allowable coefficient was fixed at 3, i. e., the total duty on any commodity could not be raised above 3 times the basic duty. This maximum was increased to 6 by a law of March 31, 1921 (Deutsches Handels-Archiv, 1921, p. 158), and there maintained by subsequent laws until the law of June 7, 1926, completely removed all limitation, while extending the power for 4 more years.

²⁵ For example, the laws of June 26, 1924, and of June 7, 1926. A law of March 23, 1932, which approved a 15-per cent surtax on unbound import duties, also authorized (art. 10) the Cabinet to annul or mitigate all or any of its provisions.

²⁶ Art. 1, I, d (Moniteur Belge, May 6, 1939). The other provisions mentioned are in art. 2.

Under this arrangement, legislative approval sometimes occurred more than a year after the effective date of tariff changes enacted by executive decree. If legislative approval was denied in cases involving payment of a tax, restitution had to be made covering the period during which the tax was in force.

Tariff-agreement powers.

The general power to alter import duties under article 2 of the law of June 10, 1920, likewise served as authority to reduce rates in tariff agreements pending legislative approval.

Nontariff import controls.

A law of June 30, 1931, amended July 30, 1934, conferred on the Executive the power to regulate imports. Import-permit requirements were introduced for many commodities. Such quotas as were established were not publicly announced, except certain quotas fixed in commercial agreements. Foreign-exchange control was in effect for a short period, from March 18 to April 26, 1935, in connection with devaluation of the currency, and was reintroduced on May 10, 1940. Emergency control over foreign trade was established on August 25, 1939.

BOLIVIA

In Bolivia the Executive exercises complete legislative functions, including those pertaining to tariffs. Bolivia has foreign-exchange control and some import-permit requirements.

Autonomous tariff powers.

In recent years virtually all tariff and other legislation has been decreed by the Executive without recourse to the legislature, which has from time to time been dismissed by the Executive for indefinite periods. A decree of May 4, 1938,²⁷ delegated to the Minister of Finance acting alone the discretionary power to reduce duties on certain foodstuffs as a means of combating the increased cost of living.

Recent tariff changes have consisted largely of alterations in the schedule of so-called currency depreciation surcharges, which vary from commodity to commodity. Thus a revision, effective July 1, 1939,²⁸ changed the range of such surcharges, which had been from 40 to 800 percent of the duties, to from 40 to 950 percent.

The tariff law of 1927²⁹ authorized the Executive to prohibit, limit, or regulate imports only in stipulated circumstances and subject to prompt report to the legislature concerning any action taken. There is not even specific mention of tariff rates; in fact most of the prerequisite conditions obviously relate to sanitary and social prohibitions, punitive measures and the like, but also include prejudicial price and freight-rate manipulations by business combinations. Identical provisions are included in the present tariff law (art. 5) of April 8, 1940.

This new tariff law also authorizes the President to decree increases in duty for the benefit of industries which apply for such increases

²⁷ Summarized in U. S. Commerce Reports, July 9, 1938, p. 611.

²⁸ Summarized in U. S. Commerce Reports, August 12, 1939, p. 730.

²⁹ A legislative act enforced by a Presidential decree of September 28, 1927, art. 14 (Edición Oficial, La Paz, 1927, p. 6).

and which have adequate capacity for the production of the commodities in question.³⁰ Without specifying limitations, this law (art. 22) furthermore authorizes the President to modify tariff rates when such action is required by the needs of consumers.

Tariff-agreement powers.

Under the Constitution of October 28, 1938, article 58, international treaties and agreements must be approved by the legislature before taking effect, but the Constitution has at times been suspended in practice.

Nontariff import controls.

Exchange restrictions have been in effect since 1931. By a decree of May 8, 1940, a list of luxury goods and some products competitive with domestic industry are permitted importation only after prior authorization from the Ministry of Finance.³¹ Similar provisions have been in effect during various periods since 1936.

Prior permission from the Bolivian Government oil monopoly (Yacimientos Petrolíferos Fiscales Bolivianos) is required for the importation of gasoline, including aviation gasoline, and other petroleum products. Exempted from this provision are petroleum products imported by mining companies and railroads for their own use.

BRAZIL

The Brazilian Executive has temporary power to alter import duties without subsequent legislative approval, and permanent power to put into effect tariff agreements provisionally, subject, however, to subsequent legislative approval.³² Brazil has foreign-exchange control, and import-permit requirements and quotas for petroleum products.

Autonomous tariff powers.

Under the transitory provisions of the present Constitution of November 10, 1937 (art. 180), the President of Brazil has discretionary power to legislate by decree in regard to import duties until a plebiscite on that Constitution has been held and the National Parliament elected. Powers over the tariff were first specifically assumed by the Chief of the Provisional Government (1930-34) by a decree of September 8, 1931,³³ and were exercised until a new constitution came into force on July 16, 1934.

The present basic tariff³⁴ was decreed by the Chief of the Provisional Government before the Constitution of 1934 came into force. Article 4 of this measure empowers the Executive temporarily to reduce or to remove import duties (1) on goods that may compete with similar goods produced in Brazil by trusts or cartels or sold at excessive prices, and (2) also on goods of a type not produced in

³⁰ A decree law enacted by the provisional president, effective June 1, 1940, arts. 22 and 23 (Arancel Aduanero de Importaciones, Edición Oficial, La Paz, 1940).

³¹ A decree of October 18, 1940, removed this restriction from some of the more essential commodities.

³² Both chambers of the legislature are elected indirectly, by local legislatures, except that 10 of the 41 members of the upper chamber (Conselho Federal) are appointed by the President.

³³ Decree No. 20280 (Diário Oficial, September 11, 1931).

³⁴ Decree No. 24343 of June 5, effective September 1, 1934.

Brazil intended for consumption in a specified region when such alleviation is judged necessary to the development of that region.³⁶

Tariff-agreement powers.

Irrespective of the transitory constitutional provisions the President has discretionary power under the Constitution of 1937 (art. 74n) to put international agreements into effect provisionally subject to subsequent approval by the legislature. This power had not been granted by the Constitution of 1934.

Nontariff import controls.

Exchange restrictions have been in force since 1930 and officially since September 1931. Since April 1, 1939, permits issued by the National Petroleum Council have been required for the importation of petroleum products. On October 31, 1939, the Minister of Finance announced that the National Petroleum Council has authorized to each importer until further notice a monthly quota of 750 kilos of petroleum and petroleum derivatives.

A decree of September 29, effective October 2, 1939,³⁶ created the National Economic Defense Council to protect the national economy in the emergency arising from the European war. The Council has broad powers, including that to regulate imports, and its measures become effective upon approval by the President.³⁷

BULGARIA

In Bulgaria the only important executive tariff powers provided for by present legislation permit import-duty reductions within specified limits in order to combat excessive prices and the removal of duties on certain industrial and agricultural materials; legislative approval is not required. In practice, however, the Executive enforces tariff agreements with or without subsequent legislative approval. From May 20, 1934, until 1938,³⁸ the legislature, a single chamber (Sobranye), was dissolved and the Executive exercised legislative functions. The legislature was again dissolved on October 24, 1939, but a new general election, held on January 30, 1940, resulted in the return of 140 supporters of the Government and an opposition of 20. Bulgaria has foreign-exchange control and requires import permits.

Autonomous tariff powers.

Prior to 1934, the authority of the Executive to alter import duties was limited chiefly (1) to adjustments for the purpose of

³⁶ Special reductions and exemptions, such as are more or less prevalent in many countries, are important in Brazil. A number of previous provisions for special import-duty reductions in various prescribed amounts or for complete exemption were consolidated in a decree of March 21, 1934. These provisions apply, as concessions granted by the Government, to products imported by concerns engaged in various industries and in agricultural development, and may be declared no longer applicable by the Minister of Finance on the recommendation of a special commission, when it is ascertained that goods and materials required by the beneficiaries in their operations are adequately produced locally. A decree dated February 24, effective March 5, 1938, continued these special exemptions and reductions, with revisions both upward and downward in the amount of reduction allowable in the various cases.

³⁷ Decree law No. 1641 (Diario Oficial, October 2, 1939; summarized in U. S. Commerce Reports, November 4, 1939, p. 1000).

³⁸ As an example of the Council's activities, see its resolution No. 5, August 20, 1940 (summarized in Foreign Commerce Weekly, October 10, p. 101), regarding imports of jute and sisal products.

³⁹ A new electoral law, issued in October 1937, prohibited party candidature, and a general election for a new legislature was held in March 1938 (Statesman's Year-Book, 1940).

maintaining fixed ratios between the specific duties and the values of the assessed commodities;³⁹ (2) to the removal of duties without legislative approval, from a list of commodities specified in a law⁴⁰ for increasing Government revenues, which law placed ad valorem duties ranging from 10 to 60 percent on all commodities previously duty-free;⁴¹ and (3) to the determination (by the Minister of Commerce, Industry, and Labor) of which raw materials and semimanufactures should be exempted from duty when imported by specified industries for their own use.⁴²

After the assumption of legislative functions by the Executive, a royal decree of August 14, 1936,⁴³ empowered the Cabinet, on demand by the Minister of Commerce, Industry, and Labor, to lower the duties down to 20 percent ad valorem on commodities sold at excessively high prices in the internal market according to the findings of a special governmental organ entrusted with price supervision. This provision was inserted as an additional paragraph in article 1 of the basic tariff law of March 2, 1922, and is still in force and frequently utilized for pertinent tariff reductions.

Since the reconvening of the legislature, autonomous tariff changes not enforceable under the foregoing and other minor provisions⁴⁴ have been effected by legislative action.

Tariff-agreement powers.

The Constitution (art. 17) stipulates that treaties of commerce do not become definitive until they have been approved by the legislature. For putting them into force immediately the Executive has sometimes employed article 47 of the Constitution, which empowers the King acting with the Cabinet to issue decrees with the force of law, if the State is menaced by internal or external danger and the legislature cannot be convened.⁴⁵ Decrees issued under this power have to be submitted for approval to the legislature at its next session.

In practice, however, commercial agreements are usually put into force provisionally by an exchange of notes, and there is no provi-

³⁹ By a tariff committee consisting of Government officials and members of the legislature and business associations (tariff law of March 2, 1922, art. 1; published in *Derzaven Vestnik*, the official gazette, No. 8, April 11, 1922; and *Deutsches Handels-Archiv*, 1922, p. 411). A decree of 1936, mentioned below, eliminated the committee and conferred the same power on the cabinet. The adjustment is made by multiplying the specific duties expressed in gold by different coefficients to convert them into Bulgarian paper currency. For example, as of April 1, 1932, the general coefficient was 27, whereas coefficients for specified commodities ranged from 5 to 25 (*Legislativer Informationsdienst*, Bulgarien, Zolltarif, Stand vom 1. April 1932, Sonderausgabe, pp. 1 and 11).

Furthermore, art. 6 of the 1922 tariff law empowers the Minister of Finance, after consulting a committee of experts, to assess commodities not classified in the tariff with ad valorem duties of from 10 to 100 percent, inclusive.

⁴⁰ No. 17, May 4, 1933, art. 3 (*Derzaven Vestnik*, No. 29, May 10; and *Deutsches Handels-Archiv*, 1933, p. 1954). The specified commodities are insecticides, artificial manures, glass for greenhouses, materials used by grape growers (steel angles and wire), and by water power and irrigation cooperative associations and the State coal mines.

⁴¹ Subsequently the Executive delegated the power to remove duties by decree to the Minister of Finance for certain of the specified commodities. For example, see decree No. 959 of August 10, 1934 (*Derzaven Vestnik*, No. 109, August 14; and *Deutsches Handels-Archiv*, 1934, p. 3616), referring to the materials used by the grape growers, water cooperatives, and State coal mines.

⁴² Law for the Fostering of Domestic Industries, of June 7, 1928, effective from April 1, 1928, for 15 years (*Derzaven Vestnik*, No. 53, June 14; and *Deutsches Handels-Archiv*, 1928, p. 2784), art. 18. This article superseded a similar provision in art. 17 of an earlier law of the same nature.

⁴³ No. 352, *Derzaven Vestnik*, No. 195, August 31, 1936; and *Deutsches Handels-Archiv*, 1936, p. 3705.

⁴⁴ For example, the Minister of Finance may alter, within limits, the statistical fees levied on imports if the fees are not in proper relation to the value of the goods (Law No. 12, May 27, 1930; *Derzaven Vestnik*, No. 51, June 6).

⁴⁵ For example, a treaty of commerce and navigation with Italy, signed July 30, 1934, was so enforced. See *Derzaven Vestnik*, No. 162, October 17, 1934, p. 2442. Note that this occurred during the period 1934-38, when the legislature was dissolved.

sion obliging the Executive to submit such agreements to the legislature within a specified time.

Nontariff import controls.

Since October 15, 1931, all foreign-exchange transactions have been placed under the control of the National Bank, which establishes import quotas and allocates them to importers in proportion to their imports in an earlier period. There is no systematic allocation by country of origin. Exporters are obliged to sell to the National Bank varying proportions of the exchange received and differential exchange rates have prevailed.⁴⁶ Import permits are required for all commodities. Although these permits do not give an absolute right to the issuance of foreign exchange, the National Bank supplies the required exchange if available.

A law of May 22, 1940, established a Foreign Trade Administration to direct commercial policy, to organize and control foreign trade, and to absorb an Export Institute in operation since 1935. During 1940 the scope of the Bulgarian Grain Monopoly was expanded to include more commodities, and occasionally exports of specified commodities were linked with imports of other specified commodities.

CANADA

The Canadian Parliament has passed statutes which authorize the Executive (the Governor in Council, actually the Cabinet) to remove, reduce, or bind import duties, either autonomously or in tariff agreements, without subsequent legislative approval. In practice, however, tariff agreements are usually provisional pending parliamentary ratification.⁴⁷ Moreover, most reductions in duty, together with all increases in duty, are submitted to Parliament as part of the budget. They are put immediately into provisional effect pending parliamentary approval, but if such approval fails the changes are not made. The Executive also has powers, without the necessity of an agreement, to grant to any country the lower columns of the multiple column tariff or to withdraw such grant. In practice, however, the grant of the lower columns of the tariff, in the case of any important country, is ordinarily made in a trade agreement.

Executive powers to reduce duties because of unfair business practices, or to increase them by means of official valuations and so-called antidumping duties, are regularly exercised without legislative approval.

Canada has foreign-exchange control and import-permit requirements, both introduced since the outbreak of the war.

The following discussion deals purely with the legal aspect of executive tariff powers in Canada.

⁴⁶ Exporters to free-exchange countries with which Bulgaria has no pertinent agreement must sell 75 percent of the exchange received to the National Bank, and exporters to other countries, amounts varying with the commodity from 10 percent for hemp and pencils to 80 percent for flour. Exports of rice, fruits, vegetables, and ores are entirely exempt from this requirement. Exporters sell other exchange at rates fixed by the bank and carrying from a 35-percent premium for free exchange in general to a 2-percent discount for German marks (*Vneshnyaya Torgovlya*, of Moscow, 1940, No. 9, Sept., pp. 28-29).

⁴⁷ For an example, see the second trade agreement with the United States, signed November 17, 1938, art. 18, par. 2.

Autonomous tariff powers.

Canada has at present three columns of import duties entitled "general, intermediate, and British preferential." The British preferential column was introduced in 1898 for the products of specified British countries,⁴⁸ and the Minister of Customs had discretionary power to extend it to any other British country whose customs tariff was, on the whole, as favorable to Canada as the preferential column was to such British country.⁴⁹

The intermediate column was established in 1907 by a new tariff law,⁵⁰ which authorized the Governor in Council, in consideration of benefits regarded as satisfactory, to grant the intermediate column, in whole or in part, to any British or foreign country which had previously been subject to the general column. Furthermore, this law transferred to the Governor in Council the power to extend the British preferential column to British countries not designated by law and repealed the provision requiring equally favorable treatment in return.

Subsequent laws (1) broadened the executive power concerning the British preferential rates to include their extension to any territory administered under a mandate of the League of Nations by any British country already receiving the benefit of these rates;⁵¹ (2) authorized the Governor in Council to accord to any British country rates of duty more favorable than those of the previously existing British preferential tariff;⁵² (3) removed the requirement of satisfactory reciprocal concessions for the grant of the intermediate column;⁵² and finally (4) authorized the Governor in Council to grant as favorable tariff treatment to any British country or British mandate as is granted to the most-favored foreign nation.⁵³

Until after the outbreak of the present war, the grant of the British preferential or the intermediate column was contingent on direct shipment of imports, as defined in current legislation.

Coterminous with the above powers, the Governor in Council has had authority also to withdraw any benefits extended under them, and even to withdraw the benefit of the British preferential column from countries, except the United Kingdom, to which it has been granted by law.⁵⁴ Legislative approval is not legally required for executive action taken under any of these powers.

The Executive has certain tariff powers to combat unfair business practices. For decades⁵⁵ the Governor in Council has had authority to direct any judge of specifically designated courts to investigate any arrangement in restraint of trade alleged to exist among manufacturers or dealers in any article to the detriment of consumers. If the judge finds such an arrangement to exist, the Governor in Council may reduce or remove the duty on the article in question, if it appears that the duty contributes to the disadvantage suffered by the consumer. In 1930 the executive power to reduce or remove duties was

⁴⁸ The United Kingdom, Bermuda, the British West Indies, and British Guiana. This list was expanded under subsequent tariff acts.

⁴⁹ Colonial Tariff Policies, U. S. Tariff Commission, 2d ed., 1922, p. 668.

⁵⁰ 6-7 Edward VII, ch. 11, April 12, 1907; see sec. 4 for executive powers.

⁵¹ Statutes, 1924, ch. 38, sec. 1.

⁵² 21-22 George V, ch. 30, August 3, 1931, sec. 4.

⁵³ Statutes, 1935, ch. 28.

⁵⁴ Tariff law of 1907, sec. 4. Concerning the withdrawal of benefits extended under executive powers, see the respective laws conferring these powers.

⁵⁵ *Ibid.*, sec. 12; and Statutes, 1910, ch. 9, sec. 47; continued in subsequent tariff laws.

extended, except as regards agricultural products, to cases where producers merely take advantage of the duties to increase prices or to maintain them at unduly high levels;⁵⁶ no prior investigation by a judge is required. Finally, in 1935,⁵⁷ the Governor in Council was authorized to revoke duty reductions on liquors if, in any province, the full benefit of the reduction is not reflected in prices to consumers. Legislative approval is not legally required for action taken under the executive powers concerning unfair practices.

Official valuations.

Under the customs law, the Governor in Council, on a report from the Minister of National Revenue (previously Minister of Customs and Taxes), may authorize that Minister to fix the value for duty purposes of commodities imported under such conditions as to harm Canadian producers. This authority has been used to increase greatly the actual customs charges on certain imports; for, in addition to the automatic increase resulting in ad valorem duties, the antidumping provisions of the tariff law have usually been brought into play. The value fixed by the Minister is legally defined as the fair market value; and for commodities of a kind produced in Canada, whether dutiable or free of duty, the tariff law prescribes the assessment of a dumping duty equal to the excess of the fair market value over the actual price. In fact, sometimes the official value is fixed at a given amount above the price whatever the price may be, this amount becoming the dumping duty.

At first the executive authority to fix dutiable values applied only to natural products of a kind produced in Canada,⁵⁸ and the ensuing dumping duty might not exceed 15 percent of the official value.⁵⁹ In 1930 the authority was extended to apply to all commodities,⁶⁰ and the maximum allowable dumping duty was raised to 50 percent of the official value.⁶¹ In 1935, however, the authority was abolished as regards all imports entitled to the British preferential rates or to still lower rates;⁶² and, in 1937, the Minister of National Revenue was authorized to suspend for Provinces or regions to be specified by him the application of the values fixed for fruit and vegetables by the Governor in Council.⁶³

Since the tariff revision of May 1, 1930, the Governor in Council has fixed duty values, mostly seasonal, for many products, particularly fresh fruits and vegetables. These values often entailed additional customs charges equal to several times the actual price of the goods. However, in trade agreements with the United States, specific limits were placed for many agricultural commodities on the extent to which customs charges could be increased by this procedure. Moreover, in accordance with intentions expressed in a note accompanying the first agreement, the practices above described were discontinued for a number of articles, including automobiles, and the customs law was modified⁶⁴ to permit appeal to a tariff board, whose finding

⁵⁶ 21 George V, ch. 3, Sept. 22, 1930, sec. 2.

⁵⁷ Statutes, 1935, ch. 28.

⁵⁸ 12-13 George V, ch. 18, June 27, 1922, sec. 3 (Customs Law, sec. 47A).

⁵⁹ 6-7 Edward VII, ch. 11, April 12, 1907 (Tariff Law), sec. 6.

⁶⁰ 21 George V, ch. 2, September 22, 1930, sec. 4 (Customs Law, sec. 43).

⁶¹ 21 George V, ch. 3, September 22, 1930, sec. 1 (Tariff Law, sec. 6).

⁶² See order of Minister of National Revenue in Appraisers' Bulletin, No. 4452, October 12, 1935, or subsequent text of sec. 43 of the Customs Law.

⁶³ 1 George VI, ch. 24, April 10, 1937, sec. 2 (Customs Law, sec. 43, par. 5).

⁶⁴ 1 Edward VIII, ch. 19, June 2, 1936, sec. 6 (Customs Law, sec. 43, par. 3).

becomes at once effective, concerning the appropriateness of official valuations for other commodities.⁶⁵

The Tariff Board has been in existence since February 1933.⁶⁶ Its appointment was mandatory under the Ottawa Trade Agreement with the United Kingdom of October 13, 1932 (arts. 12 and 14), which stipulated that no existing duty should be increased on United Kingdom goods except after inquiry and report by the Board. Its functions include also reports on any tariff matters by request of the Governor in Council or the Minister of Finance.

Tariff-agreement powers.

The powers of the Executive to grant the lower columns of the tariff have already been described. A law of 1923⁶⁷ empowered the Governor in Council to authorize any Minister of the Crown to negotiate a commercial agreement with the United States, but any agreement so made was to be subject to approval by the Canadian Parliament. The Tariff Act of 1931 dropped this provision and, instead,⁶⁸ authorized the Governor in Council to make duty reductions on imports from any country in compensation "for reductions on Canadian products" granted by that country. In 1935,⁶⁹ the clause in quotation marks was changed to read: "for concessions granted * * *." Legislative approval is not legally required. By virtue of this authority, most-favored-foreign-nation treatment (i. e., the intermediate column and any still lower duties granted to other non-British countries) is sometimes accorded to countries with which no specific agreement to this effect has been concluded.⁷⁰ The two trade agreements with the United States (effective 1936 and 1939), both of which provided for most-favored-foreign-nation treatment and reduced many rates below that level, were put into effect provisionally by the Executive, but themselves required approval of the legislature for definitive force.

Nontariff import controls.

Prior to Canada's declaration of war against Germany on September 10, 1939, there were in Canada no nontariff barriers to trade. Far-

⁶⁵ See Trade Agreement with Canada, U. S. Tariff Commission, 1938, pp. 94-102, and 118-119. The first reference gives details concerning also the previous authority of the Executive to determine reasonable selling costs, profits, and discounts (21 George V, ch. 2, September 22, 1930, secs. 1, par. 2, and 2—Customs Law, secs. 36, par. 2, and 37—superceding Statutes, 1907, ch. 10, sec. 30, concerning only discounts) in the fixing of dutiable values, which procedure also gave rise to the assessment of dumping duties, especially in relation to automobile discounts. In accordance with the note (second reference), these sections of the Customs Law were repealed (1 Edward VIII, ch. 19, June 2, 1936, secs. 3 and 4) and a paragraph was added to the dumping provisions of the tariff law (sec. 6, par. 10) defining "produced in Canada" as meaning produced in substantial quantities, and authorizing the Governor in Council to determine what percentage of Canadian consumption should constitute a substantial quantity (1 Edward VIII, ch. 31, June 24, 1936, sec. 2). On July 2 this percentage was placed at 10 (Order in Council P. C. 1618).

⁶⁶ Authorized by the Tariff Board Act passed August 3, 1931 (Statutes, 1931, ch. 55, p. 417). An Advisory Board on Tariff and Taxation had been created by an Order in Council of April 7, 1926, but was abolished by another such order of August 8, 1930 (Canada Yearbook, 1926, p. 1021; and 1931, p. 1074).

⁶⁷ Statutes, 1923, ch. 42, sec. 2. This same section also empowered the Governor in Council, if the President of the United States, under authority of the United States Tariff Act of 1922, should determine to reduce the duties of that act on specified agricultural products and fish, to make such duty reductions for the same articles imported from the United States as might be deemed a reasonable compensation. This provision was not continued in the Canadian Tariff Act of 1931.

⁶⁸ 21-22 George V, ch. 30, August 3, 1931, sec. 11.

⁶⁹ Statutes, 1935, ch. 28.

⁷⁰ Any tariff powers discussed and still in effect are given in the Customs Tariff and Amendments, 1939, secs. 4, 6, 11, 15, 17, and 18, and in the Customs Law as amended through April 10, 1937, sec. 43. The notes give in each case the original act, but several provisions have been re-enacted without change by subsequent statutes, such as 21-22 George V, ch. 30, August 3, 1931.

reaching control over imports and over all transactions in foreign exchange were authorized by an Order in Council, effective September 16, 1939. Since that date all commercial importations have required an official permit and all transfers of funds an exchange permit from agencies authorized by the Foreign Exchange Control Board. Imports of some commodities were prohibited, and for others permits were issued on a diminishing scale.

The Canadian Government announced on February 24, 1940, that, in order to maintain the stable production of hogs in Canada as a wartime supplier of bacon to the United Kingdom, the monthly imports of fresh and frozen pork are limited temporarily to the average monthly imports of such products during the period January-September 1939, namely 1,626,769 pounds, under license obtainable by Canadian importers from the Department of National Revenue. (This provision was subsequently revoked.)

CHILE

The Chilean Executive has power, within limits and in specified circumstances, to decrease import duties on prime necessities and to increase them for protective purposes. No legislative approval is required. The Executive may also reduce duties temporarily by commercial agreements pending legislative approval.

Chile has complete foreign-exchange control and has exchange quotas or import quotas for a very few articles.

Autonomous tariff powers.

A law of February 22, 1928,⁷¹ authorized the Executive to reduce duties temporarily by not more than one-fourth on articles of prime necessity and articles indispensable for public health whenever the internal conditions of the country require it. A law of April 19, 1932,⁷² increased the reduction limit to one-half of the duties.

The 1928 law authorizes the Executive also to increase import duties by as much as 35 percent (i. e., 7/20) on articles which are analogous to those produced locally in adequate supply, subject to such price regulation as the Executive may decree. The Executive may cancel or reduce these increases, and any others decreed by virtue of extraordinary executive powers, when the circumstances which motivated them no longer exist.

Tariff-agreement powers.

A law of March 10, 1933,⁷³ empowers the Executive, when the interest of the country makes it advisable, to reduce import duties by commercial agreements and to put such reduced rates into effect for 1 year pending legislative approval.

Nontariff import controls.

Exchange restrictions have been in force since 1931. An import-permit and quota system was authorized by a law of July 18, 1933, and placed under the control of the Exchange Control Commission. Under the law, quotas may be established for specific products and for imports of these products from any given country. Exchange quotas have been fixed at various times for imports of automobiles

⁷¹ Law No. 4321, art. 9 (originally art. 15).

⁷² Law No. 5107, art. 10.

⁷³ Law No. 5142, art. 2.

and radios. Global import quotas have been fixed at various times for gasoline, bananas, sugar, calcium carbide, edible oils, flat glass, jute bags, woolen cloth, and electric-light bulbs. There are some special allotments by country of origin for these commodities, such as a banana quota for Ecuador.

CHINA ⁷⁴

Normally tariff changes in China must be passed upon by the legislature but, in emergencies, they may be put into force by the Executive pending final review by the legislature. However, duty recommendations of the Minister of Finance are, as a rule, approved by both the Executive and the legislature. The Executive has no special authority to make tariff agreements effective before approval by the legislature.

Shortly after the outbreak of hostilities in 1937, the Supreme National Defense Council was created as the highest political organ during the period of emergency. Its functions include power to act in any exigency of the war.⁷⁵

China has foreign-exchange control and some import-permit requirements.

Autonomous tariff powers.

The ordinary procedure for determining customs duties authorized by the Organic Law⁷⁶ of the Republic of China and by statute is as follows: Proposals for tariff legislation may be initiated either by the Ministry of Finance or the National Tariff Commission⁷⁷ appointed by him, but he has unlimited discretionary authority to approve, reject, or alter the recommendations of the Commission.

While proposals for changes in the customs tariff thus originate in the Ministry of Finance, they must be submitted to the Executive Yuan, the highest executive authority,⁷⁸ for consideration. The Executive Yuan is a policy-determining organ, roughly comparable to the cabinet in parliamentary government, which sponsors Government bills before the Legislative Yuan, the Legislative Yuan being comparable to a legislature. Bills proposed by the Executive Yuan are forwarded through the Central Political Council to the Legislative Yuan. If passed, they become law on promulgation.

In this system there is no clear-cut theory of ministerial responsibility, and the discretion of a given ministry is limited by the procedure. In practice, however, the ministries, especially the Ministry of Finance, have broad power to determine the character of legislation and to interpret the terms employed. The proposals of the

⁷⁴ This discussion relates only to the sections of China not under Japanese occupation. Sections so occupied account for a predominant portion of imports into Chinese territory, but do not have independent tariff jurisdiction.

⁷⁵ Political Handbook of the World, 1940, p. 33.

⁷⁶ The "final draft" of the Permanent Constitution was published on May 5, 1936. Prior to the date of final promulgation the Provisional Constitution, adopted by the National People's Convention in May 1931, was in force.

⁷⁷ Established in November 1927 by virtue of regulations promulgated on July 23 of that year. In April 1929 it absorbed a Price Investigation Bureau, which was established in 1919 chiefly to assist the Government in making tariff revisions.

⁷⁸ The Executive Yuan includes the heads of the various ministries and commissions, its chairman being virtually a Prime Minister.

The members of the Legislative Yuan are appointed by the President of the National Government. The provision of the Permanent Constitution (art. 67) for their indirect election by the delegates to a People's Congress has not yet been put into effect (the China Year Book).

Finance Minister with respect to customs duties, except general tariff revisions, are usually approved without change by the Executive Yuan and the Legislative Yuan.⁷⁹ Thus, while legally the discretionary authority of the Ministry of Finance, and even of the Executive Yuan, is strictly limited, in practice the power of the Finance Minister to effect changes in tariffs and similar matters is very considerable.⁸⁰

An exception to this procedure is permissible in the event of national emergency or great national economic crises which call for urgent measures.⁸¹ In such circumstances the President, by resolution of the Executive Council (the steering committee of the Executive Yuan), may issue emergency mandates to cope with the situation. Such emergency mandates must be submitted, however, to the Legislative Yuan for confirmation within 3 months after issuance.

Tariff-agreement powers.

Executive or administrative agencies, as for example, the Ministry of Foreign Affairs and the Executive Yuan, have no special authority to effect changes in customs tariffs or to institute foreign-trade controls through the exercise of their authority to negotiate international treaties and agreements. Such arrangements must be submitted to the Executive Yuan for consideration, which in turn submits them to the Legislative Yuan for confirmation.⁸² Treaties and agreements thus require legislative confirmation before they become effective.

Nontariff import controls.

Foreign-exchange control has been in effect since March 1938, and import permits have been required for a long list of dispensable articles since July 1, 1939. On September 19, 1940, this list was substantially reduced to relieve acute shortage of certain necessities.

COLOMBIA

The Colombian Executive has very limited tariff powers. Colombia has established foreign-exchange control and import-permit requirements.

Autonomous tariff powers.

A law of December 9, 1931,⁸³ introduced a second schedule of import duties 25 percent higher than the prevailing rates, and authorized the Executive to apply the higher rates to the products of countries which in his judgment do not adequately facilitate the importation of Colombian products. This provision, however, is chiefly punitive.

Tariff-agreement powers.

Although the Executive has at times had temporary powers to enforce provisional commercial agreements (November 1932 through July 1933⁸⁴) or agreements with specified countries, in general, tariff

⁷⁹ The procedure described was followed, for example, when the customs surtax (5 percent of the general duty) was extended for another year, i. e., from July 1, 1937.

⁸⁰ A special procedure applies to fixing the import duty on a few commodities. The Minister of Finance is empowered to fix the exact duty within a minimum-maximum range prescribed by the Legislative Yuan.

⁸¹ The Permanent Constitution, art. 44.

⁸² If an international agreement is considered of special importance, the President may require under the Permanent Constitution (art. 70) that the agreement be referred from the Legislative Yuan to the People's Congress, but this congress has not yet been convened.

⁸³ Law No. 135 (Diario Oficial, December 10).

⁸⁴ Law No. 35, November 23, 1932.

reductions by agreement require legislative ratification before they become effective.

Nontariff import controls.

Foreign-exchange control has been in force since September 1931. Prior permits are required in order to obtain the consular legalization of import documents. On April 11, 1940, all commodities were grouped in four categories, according to their degree of essentiality or of dispensability, with different criteria for the allocation of exchange for their importation. The Colombian Office of Exchange and Export Control resolved on April 25, 1940, that, in order to obtain an import license thereafter, an advance payment in Colombian currency equivalent to 10 percent of the value of the goods covered by the license must be made.

Executive decrees promulgated in July 1940 instructed the Office of Exchange and Export Control to limit to global quotas the issuance of licenses for the importation of rice during the period July 18 to December 31, 1940, and of wheat during the same period and also designated global quota limitations on these products for 1941 and 1942. These decrees provided that the stated quotas could be exceeded only in the event of crop failures in Colombia, and also declared that after January 1, 1943, no import licenses for rice and wheat will be granted.

COSTA RICA

The Costa Rican Executive may alter import duties autonomously under certain conditions, especially by increases within limits on luxury articles; but for reductions by commercial agreements, prior approval by the legislature, a single chamber called Congreso Constitucional, is required. Costa Rica has foreign-exchange control.

Autonomous tariff powers.

In 1901 the Executive was empowered to increase or decrease the rates of import duty with the proviso that articles of luxury should be dutiable at higher rates than articles of first necessity or than materials for the use of national industries.⁸⁵ This authorization was cited by the Executive as late as June 24, 1930, in decreeing a protective duty on confectionery.⁸⁶

A law effective January 25, 1933,⁸⁷ authorized the Executive to increase import duties up to double the then existing rates on all articles considered dispensable luxury goods.

Nontariff import controls.

Exchange restrictions have been in force since 1932. At present controlled exchange (the proceeds of Costa Rican exports) is granted preferentially for imports of a specified list of necessities. Import permits are not required. A decree of September 5, 1939, provided that of the available exchange reported daily by the banks, 80 percent should be allocated to cover applications for essential imports, 10 percent for other imports, and 10 percent for noncommercial purposes. Another decree, published February 9, 1940, expanded the number

⁸⁵ Legislative decree No. 7, June 14, 1901, Art. 2 (La Gaceta, June 15).

⁸⁶ Executive decree No. 13 (La Gaceta, July 4).

⁸⁷ Legislative decree No. 40, January 23, 1933 (summarized in U. S. Commerce Reports, February 18, p. 108).

of commodities considered essential, and increased the allotment of exchange for nonessential imports to 12 percent at the expense of noncommercial transactions.

CUBA

Prior to the introduction of a new Constitution late in 1940,⁸⁸ the situation in Cuba was as follows:

Changes in the rates of Cuban import duties and supplementary charges were made by laws of the Cuban Congress. However, the President of Cuba did have discretionary power to apply the lowest rates of a three-column tariff to individual countries or commodities under certain conditions. He may be said, also, to have been still vested with broad powers over tariff matters generally. These powers antedated the reestablishment in 1936 of constitutional government in Cuba, but were no longer exercised in full because their legality had been questioned.

Whatever may have been the powers of the Executive, it is significant that the existing Cuban tariff is the result almost wholly of executive action. The entire tariff revision of 1927, which is the basis of the present tariff, and many later tariff amendments were prepared and put into effect by the President on the basis of powers granted by the legislature in 1926.

Executive tariff powers differed greatly in three distinct constitutional periods, namely, under the Constitution of 1901, and under provisional Constitutions of February 1934 and June 1935. The powers of the Executive under these three Constitutions are treated separately below.

Constitution of February 21, 1901.

In general, tariff changes before 1926 modifying the Cuban tariff of 1900 were made by law and were comparatively few in number. A law of February 9, 1926, effective originally for a period of 3 years,⁸⁹ gave the Executive full authority to revise the existing customs tariff or to make any changes therein, subject only to the obligation of consulting a Technical Tariff Commission⁹⁰ and of reporting to the legislature by special message. By the resulting tariff revision of October 19, 1927, which nominally introduced a double-column tariff, the Executive conferred upon himself, in addition to powers over punitive rates, the authority⁹¹ to decide whether the tariff treatment of Cuban products by another country justified the reciprocal application of the lower Cuban column and whether to apply the rates of the lower or the higher column, or to establish rates of

⁸⁸ The new Constitution, which came into force on October 20, provides for a semiparliamentary form of government, in place of the former cabinet system. The executive power is exercised by the President of the Republic together with the Council of Ministers. By express provision of this Constitution, the powers of the Congress for the fixing of import duties and for the control of commerce may not be delegated to the Executive. Agreements of all kinds with other countries must be submitted for approval to the Senate.

Pending the complete application of all the new constitutional provisions, it may be presumed that most of the provisional measures of the previous regime, particularly those pertaining to tariffs and trade controls, will remain generally in effect until the period of adjustment is over.

⁸⁹ Gaceta Oficial, February 11, 1926, No. 34, p. 8400. This law was not finally abolished until revoked by the import control law of 1935.

⁹⁰ An interdepartmental body provided for by the law of February 9, 1926, and first established by Presidential decree No. 229 of March 3, 1926.

⁹¹ General Provisions of the Customs Tariff, art. 3a (Gaceta Oficial, Edición Extraordinaria No. 12, October 20, 1927).

duty intermediate between the two. This provision, however, was not applied. Formal treaties required approval by the Senate before taking effect.⁹²

Provisional Constitution of February 3, 1934.

This Constitution abolished the legislature and transferred its functions to a Council of Secretaries composed of the Provisional President and cabinet officers appointed by him. Among other duties the Council was to regulate foreign commerce and to have the right to pass upon treaties.⁹³

In March 1935, Cuba adopted, by Executive action, a three-column tariff of ordinary rates of import duty, the column to be applied to imports from a given country being determined annually, in the absence of treaty obligations to the contrary, on the basis of the direction and size of the bilateral trade balance. However, the President is authorized to select from time to time the raw materials and basic foodstuffs which continue dutiable at the Cuban minimum-column rates regardless of country of origin.⁹⁴ Moreover, under a later amendment, the President is authorized to apply minimum-column rates of duty to the products of countries not otherwise entitled thereto, if those countries obligate themselves to import Cuban products equivalent in value to at least one-half of their current annual exports to Cuba.⁹⁵

Provisional Constitution of June 11, 1935.

Certain broad powers over tariff matters were conferred upon the Provisional President of Cuba by executive action in October 1935⁹⁶ before the reestablishment of a legislature. By these provisions, the President was authorized to increase or decrease rates of duty without limitation, to change tariff classifications, to exempt from duty articles imported for specified purposes, and to adopt other tariff modifications. Such actions were to be taken on the basis of recommendations by the Secretary of Finance and after a report by the Technical Tariff Commission.

Even after the reestablishment of a legislature in May 1936, these unlimited executive tariff powers, not having been definitely repealed, were considered as continuing in effect and were exercised until, in time, their legality was questioned.

Under this Constitution, agreements modifying basic tariff rates again required approval by the Senate before becoming effective.

Nontariff import controls.

Partial foreign-exchange control was introduced on June 15, 1939, but is not used to limit imports of individual commodities. Specified percentages of United States dollar exchange derived from some exports must be delivered to the Government.

CZECHOSLOVAKIA

Prior to German occupation of Czechoslovakia and the separation of Slovakia, the Executive had temporary emergency powers to alter

⁹² Constitution of 1901, art. 68, sec. 7.

⁹³ There was also an Advisory Council of State under this Constitution.

⁹⁴ Law No. 14, March 15, 1935 (Gaceta Oficial No. 62, March 16, 1935, p. 4674).

⁹⁵ Decree law No. 611, February 21, 1936 (Gaceta Oficial, Edición Extraordinaria No. 50, February 22, 1936, p. 4).

⁹⁶ Decree law No. 293, October 3, 1935, art. 1 (Gaceta Oficial, October 5, 1935).

import duties. The development of executive tariff powers up to that point had proceeded as indicated below. Czechoslovakia then controlled imports principally by a system of import permits. On October 1, 1940, the Provinces of Bohemia and Moravia were incorporated in the German customs area.

Autonomous powers.

As a temporary expedient, Czechoslovakia adopted the autonomous Austro-Hungarian tariff of February 13, 1906. Pending the introduction of a definitive tariff, which was never enacted, a law of August 12, 1921,⁹⁷ authorized the Executive to adjust the basic Austro-Hungarian rates by means of surtaxes called coefficients of increase, in such a way as to preserve, despite price and currency fluctuations, the original level of the rates. No legislative approval was required. The Executive exercised this power with great latitude, and since coefficients were applied to most if not all rates, the Executive was in fact able to raise duties without limit or to maintain them at, or reduce them to, the relatively low basic rates.

The Government continued to exercise these powers until a general enabling law of June 9, 1933,⁹⁸ authorized it, among other things, to alter import duties without either a lower or an upper limit during the economic emergency caused by the depression, but in no case were the conferred powers to extend beyond November 15 of that year (1933). Decrees issued by the Cabinet under this authority required the signature of the President (himself not a member of the Cabinet), and had to be submitted to the legislature within 14 days but became inoperative if disapproved by a majority vote of the two chambers in joint session. This enabling law was extended periodically, but allowed to expire on June 30, 1937. A second enabling act of December 15, 1938,⁹⁹ subsequent to partial dismemberment and the formation of a federative State, empowered the Federal Executive, during a period of 2 years, to alter import duties with the approval of the President.

The Executive also had various powers to alter import duties on a few specified commodities.

Tariff-agreement powers.

A law of November 25, 1919,¹ authorized the Executive during 1919 and 1920 to put into provisional effect import duty reductions in commercial agreements, provided that, except in cases of necessity, they should not go below the conventional or autonomous rates, whichever were lower, of the Austro-Hungarian tariff. The agreements had to be immediately submitted to the legislature for ratification by both chambers as prescribed by the Constitution (arts. 64 and 42). These powers were periodically extended with some modifications. A law of July 4, 1923,² removed the lower limit, required Presidential approval, prescribed that the reductions should be contingent upon the receipt of adequate reciprocal concessions, and stated that the provisional agreements should become inoperative immediately

⁹⁷ Collection of Laws and Decrees of the Czechoslovak State, No. 79 of September 22, 1921, p. 1534, item No. 349, art. 2.

⁹⁸ *Ibid.*, No. 35 of June 10, 1933, p. 455, item No. 95, arts. 1, 3, and 5; and *Deutsches Handels-Archiv*, 1933, pp. 2730-2731.

⁹⁹ Collection of Laws and Decrees, December 17, 1938, item No. 330.

¹ *Ibid.*, No. 134 of December 12, 1919, p. 1160, item No. 637, arts. 2 and 3.

² *Ibid.*, No. 68 of July 26, 1923, p. 697, item No. 158, arts. 2 and 3.

upon disapproval by either legislative chamber. A law of June 22, 1926, prolonged these powers until the introduction of the (never enacted) definitive tariff.³

The Czechoslovak tariff included a lower column of rates enacted by the Czechoslovak legislature for a considerable number of commodities. These reduced rates were for the products of treaty countries, and, in the case of some commodities, also for the products of nondiscriminating countries not having most-favored-nation agreements with Czechoslovakia. The measures⁴ establishing these lower rates granted the Executive discretionary powers to extend them in whole or in part to nondiscriminating countries in the case of the other commodities, for which such action was not definitely prescribed by the legislature, and also to grant them to any countries with which commercial negotiations were in progress. Furthermore, a decree of February 23, 1934,⁵ authorized the Minister of Finance, in conjunction with other specified ministers, to grant to nonagreement countries the lower rates, or duty reductions down to the existing conventional rates, if such action would render possible an increase in exports of Czechoslovak products in at least as great an amount as the probable increase in imports, or if other important advantages might result for the national economy of Czechoslovakia.

Nontariff import controls.

By early 1930 the wartime nontariff restrictions had practically disappeared, but beginning in 1931 they were reintroduced. Foreign-exchange control was established on October 5, 1931, and a systematic use of import and foreign-exchange permits, initiated on January 18, 1932, was greatly extended in subsequent months. From February 11, 1937, however, foreign-exchange control, although not abolished, was no longer utilized to restrict imports, this function being assigned to the import-permit system alone. A new law, effective from September 21, 1938, to December 31, 1940, granted to the new Federal Executive greater powers over foreign exchange. Such import quotas as existed were not allocated according to any systematic, announced plan.

DENMARK

Prior to German occupation, the situation in Denmark was as follows: Executive powers to alter import duties were very limited,⁶ but there was foreign-exchange control.

Autonomous tariff powers.

A tariff law of October 15, 1932, introduced a number of temporary tariff increases and authorized the Minister of Finance, in conjunction with the Minister of Commerce, to rescind these increases should

³ Collection of Laws and Decrees, No. 53 of July 9, 1926, p. 555, item No. 109, art. 7; and Deutsches Handels-Archiv, 1926, p. 2301.

⁴ Law of June 22, 1926 (Collection of Laws and Decrees, No. 53, of July 9, 1926, p. 555, item No. 109, art. 2), and decree of June 10, 1933 (Ibid., No. 36 of June 13, 1933, p. 457, item No. 96, art. 1, sec. 2); quoted in Deutsches Handels-Archiv, 1926, p. 2299, and 1933, p. 2743, respectively. The decree was issued under the enabling act of June 9, 1933.

⁵ Collection of Laws and Decrees, No. 13 of February 24, 1934, p. 38, item No. 28, art. 1; and Deutsches Handels-Archiv, 1934, p. 2831. Issued under the enabling act of June 9, 1933, extended.

⁶ Emergency executive powers provided in the Constitution (art. 25) were inapplicable to changes in taxes of any sort including import duties (art. 46).

they cause advances in prices of corresponding Danish products not due to increased costs of production.⁷ This measure, with some changes in the temporary rates, had been extended by various laws up to June 30, 1940.⁸ By a law of May 16, 1934, this authority was expanded to include the removal, under the same conditions, of any temporary duty increases.⁹

Tariff-agreement powers.

The Constitution (art. 18) provided for ratification of agreements with foreign states by the legislature (Rigsdag¹⁰), and agreements embodying reductions of duties usually contained a proviso requiring legislative approval before they could take effect.

Nontariff import controls.

Foreign-exchange restrictions had been in effect from November 1931, and complete foreign-exchange control was introduced by a law of January 30, 1932. The administration was complicated and subject to frequent changes. Exchange was issued freely for a specified list of more or less essential commodities, which list varied greatly in extent with the availability of foreign exchange, but after the outbreak of the war, this list was reduced and was finally entirely eliminated by a decree of April 8, 1940. In August 1940, after German occupation, trade-control measures, including the exchange-control law, were consolidated in a new law which established a Directorate for the Procurement of Goods (Directorat for Vareforsyning) for its administration.

DOMINICAN REPUBLIC

In the Dominican Republic import duties proper have been, in a measure, bound by a convention with the United States,¹¹ but the Executive may accord reductions in import taxes within specified limits as concessions in commercial agreements. Nontariff import controls have been authorized but apparently have not been established.

Executive tariff powers.

Article IV of the Convention signed on December 27, 1924, with the United States, has been interpreted to mean that no branch of the Dominican Government has a right to modify the tariff schedule without first consulting the United States Government. This article reads as follows:¹²

The Dominican Government agrees that the import duties will at no time be modified to such an extent that, on the basis of exportations and importations to the like amount and the like character during the 2 years preceding that in which

⁷ Law No. 256, art. 8 (Lovtidenden A. No. 50, October 15, 1932, p. 1606; and Deutsches Handels-Archiv, 1932, p. 2707). In law No. 75, of March 21, 1935, art. 4, the wording of this provision was altered to permit the reductions insofar as the Minister of Finance could judge from available data concerning prices of corresponding Danish products, that a price advance was not due to increased costs of production (Lovtidenden A. No. 8, March 28, 1935, p. 147; and Deutsches Handels-Archiv, 1935, p. 2658).

⁸ The original law and the various extensions were valid through the following months: March 1934, June 1935, June 1936, June 1938, December 1939, and June 1940. See p. 2724; and 1939, p. 1912.

⁹ Law No. 187, art. 55 (Lovtidenden A. No. 20, May 19, p. 722; and Deutsches Handels-Archiv, 1934, p. 3074).

¹⁰ Two chambers: Landsting and Folketing. The upper chamber (Landsting) was elected indirectly, 10 of the 70 members being elected by the outgoing Landsting. Elections for both chambers were on the basis of proportional representation.

¹¹ Similar provisions are not included in the new convention signed on September 24, 1940, approved by the Senate March 8, ratifications exchanged March 10, 1941.

it is desired to make such modification, the total net customs receipts would not at such altered rates have amounted for each of such two years to at least one and one-half times the amount necessary to provide for the interest and sinking fund charge upon its debt.

A law of April 17, 1935,¹² however, authorized the Executive to increase or reduce various internal taxes levied also on imports and to make reductions in such taxes ranging from 5 to 90 percent of the tax in exchange for concessions to Dominican products by foreign countries.

Nontariff import controls.

A law of September 12, 1939, authorized the regulation of imports, but as far as is known, no such measures have as yet been adopted.

ECUADOR

In Ecuador the Executive has emergency powers to legislate by decree. Nontariff import controls, in force for several years, but discontinued completely as of January 1, 1940, have recently been re-established in part.

Executive tariff powers.

After several years of governmental vicissitudes, during which the Executive at times exercised legislative functions, a regular legislature convened August 10, 1939, and by a resolution on the following September 1 authorized the Executive to issue whatever emergency decrees might be required by circumstances. This measure was apparently superseded by a law of November 14, 1940, which restricts the authority to decrees of an economic nature and requires subsequent legislative approval at the current or the next session as the case may be.

Tariff powers previously granted to the Executive are as follows: The tariff law includes authorization for the Executive to increase or decrease duties in cases of public emergency or for protective purposes. Report to, but not approval by, the Congress or other body designated by the Constitution is required. By this same law, moreover, the Executive is authorized, upon approval of the Council of State or other body designated by the Constitution, to grant tariff reductions or even duty-free entry for some or all of the products of another country on condition of obtaining reciprocal advantages.¹³

Ecuador maintained a single-column tariff up to the passage of its Tariff Act of January 1935, but now has a three-column system, the application of which is based in part on the size and direction of trade balances with other countries. In April 1935, surtaxes were authorized ranging from one-fifth to one-half of the duties on products specified under 18 tariff items if they originated in countries with which the trade balance of Ecuador showed imports exceeding exports by 50 percent or more, with a proviso that these surtaxes should cease to be applied if the excess ran below 50 percent for at least 6 months.¹⁴ In February 1936, as an alternative to the establishment of a compensation system, the trade-balancing policy was strengthened by

¹² Law No. 891.

¹³ Arts. 4 and 5, codified customs tariff and amendments decreed by the Supreme Chief of the Republic on March 30, 1938.

¹⁴ Executive decree (i. e., law) No. 217, April 30, art. 3.

the authorization of (from March 1, 1936) an increase up to one-half in all duties on products of any country with which the trade balance shows imports exceeding exports by more than 30 percent.¹⁵ Authorization to increase the surtax rate up to 75 percent was granted to the Ministry of Finance by a Congressional act of March 7, 1939.¹⁶ The Executive may also exempt individual products from these surtaxes irrespective of country of origin.¹⁷

Nontariff import controls.

Import controls of varying severity, including from time to time foreign-exchange restrictions, import permits and quotas, were in force in Ecuador from May 1932 until recently. Individual quotas for importers were abolished on July 1, 1939, and foreign-exchange control and import permits on January 1, 1940.

However, the Executive reintroduced foreign-exchange control on June 4, 1940. A law of October 10 approved this action and authorized the adoption of changes dictated by experience. New regulations, published October 16, provided for quarterly exchange quotas and established criteria for the allotment of exchange. On June 15, 1940, import quotas allotted equitably by countries on the basis of past trade were established on some commodities for 6 months.

EGYPT

The Egyptian Executive has temporary authority to alter import duties autonomously, without legislative approval, pending the enactment of a long-awaited new tariff, and has permanent authority to reduce or remove duties on certain necessities, in urgent cases, subject to subsequent legislative approval.¹⁸ Executive powers relating to commercial agreements are limited to putting reciprocal most-favored-nation agreements into effect without legislative approval. Egypt has had foreign-exchange control since September 1939.

Autonomous tariff powers.

A law of February 14, 1930¹⁹ (art. 1), authorized the Executive to put import duties into effect by decree from February 17 until the legislature should enact a new tariff law. Such decrees had to be submitted to the legislature during the current session. Under this law a decree of the same date put a new temporary tariff into effect on February 17, in the expectation, not subsequently realized, that a bill for a definitive tariff would be introduced by the Executive into the legislature during the current session. A law of March 31, 1932²⁰ (art. 1), eliminated the requirement of submitting the decrees to the legislature but stipulated that the tariff bill must be introduced during the 1932-33 session, unless further delay were sanctioned by the

¹⁵ Executive decree No. 83, February 13, art. 8.

¹⁶ Summarized in U. S. Commerce Reports, May 27, 1939, p. 503. The Congress which passed this act was dissolved by a Presidential decree of April 24, 1939.

¹⁷ For example, see a decree of December 23, 1939 (summarized in U. S. Commerce Reports, January 27, 1940, p. 86).

¹⁸ Two-fifths of the members of the upper legislative chamber are nominated by the Crown under a constitution of April 19, 1923, which was superseded by another constitution in 1930, but was reintroduced on December 12, 1935. The 1930 Constitution has been abrogated by a royal decree of November 30, 1934, and the legislature dissolved.

¹⁹ Law No. 2 (Journal Officiel, No. 10, February 15; and Deutsches Handels-Archiv, 1930, p. 1929).

²⁰ Law No. 3 (Journal Officiel, No. 27, March 31; and Deutsches Handels-Archiv, 1932, p. 1015).

legislature. Up to the present, such delay has been granted by a series of laws,²¹ and as yet the tariff bill has not been presented to the legislature. Most duty changes have been put into effect by decrees based on these various laws.

Furthermore, the 1930 law (art. 4a) authorizes the Executive in urgent cases to reduce or remove import duties on essential food-stuffs and raw materials and on ordinary clothing. Such measures must be submitted to the legislature for approval before the end of the session, if convened, otherwise during the next session.

The same law (art. 2) introduced punitive surtaxes (equal to the duties) to be applied according to definite criteria, and authorized the Minister of Finance to decree either general or special temporary exemptions from these surtaxes without legislative approval. This power was valid for only 1 year, but was extended for a second year by a decree law of February 5, 1931,²² and finally, by law No. 3 of 1932, until the enactment of the new tariff.

Tariff-agreement powers.

The Executive has no authority to enforce duty reductions in commercial agreements other than automatic reductions resulting from reciprocal most-favored-nation agreements. The executive authority to put such agreements into force without legislative approval is conferred in the 1930 law (art. 6). The agreements could remain in force only until 1 year after that law took effect; but, after intermediate extensions,²³ the 1932 law provided that they could remain in effect until the enactment of the long-awaited new tariff.

Nontariff import controls.

Foreign-exchange control took effect on September 28, 1939, for all currencies except sterling, but was not designed to limit transactions justified by "normal" needs of commerce and industry. On June 12, 1940, trade with Italy and its colonies was prohibited.

EIRE (Ireland)

The Executive of Eire has unlimited power to alter import duties, either autonomously or in commercial agreements, subject to approval within 8 months by the legislature (Oireachtas). Eire has import quotas and foreign-exchange control.

Autonomous tariff powers.

An act of 1932²⁴ grants the Executive complete authority over import duties, including the power to apply different tariff treatment to particular countries, but any action taken under this power shall cease to have effect at the expiration of 8 months unless it has pre-

²¹ Law No. 50 of June 8, 1936 (Journal Officiel, No. 71, June 11; and Deutsches Handels-Archiv, 1936, p. 2045); law No. 61 of 1937 (not in Handels-Archiv); law No. 71 of August 20, 1938 (Journal Officiel, No. 100, August 20; and Handels Archiv, 1938, p. 3814); and law No. 85 of 1939. Decrees issued in the period between the 1932 and 1936 laws were based on the 1932 law.

²² Law No. 18 (Journal Officiel, No. 18, February 9; and Deutsches Handels-Archiv, 1931, p. 822).

²³ By two decrees with the force of law based on art. 41 of the 1930 Constitution, namely, No. 45 of November 12, 1930 (Journal Officiel, No. 105, November 13; and Deutsches Handels-Archiv, 1930, p. 3560), and No. 111 of September 21, 1931 (Journal Officiel, No. 96, September 28; and Handels-Archiv, 1932, p. 104).

²⁴ Emergency Imposition of Duties Act, July 28, 1932 (Board of Trade Journal, 1932, p. 97). In preceding months a number of duty changes were made by orders issued under a Customs Duties (Provisional Imposition) Act of 1931. Prior to this act such changes were introduced by acts of the legislature.

viously been confirmed by an act of the legislature.²⁵ Any measure expiring in this manner cannot be continued or renewed by the Executive, but anything done under the measure during its period of validity is not impaired retroactively by its termination.

The Finance Act of 1932²⁶ authorizes the Minister of Finance, after consultation with the Ministry of Industry and Commerce, to make special duty exemptions under license for materials necessary for manufacturing processes in Eire. Such exemptions may be limited by time or by quantity.

A customs act of May 25, 1934,²⁷ specifically authorizes the Executive to determine and alter the list of countries to which the preferential rates of the Irish tariff shall apply.

A Control of Prices Act of November 12, 1937,²⁸ authorizes the Minister for Industry and Commerce to put into effect any duty reductions recommended by a Prices Commission. Any action taken under this act shall be submitted to the lower legislative chamber (Dail Eireann) as soon as possible. It becomes void, although not retroactively, if disapproved by the Dail within 21 session days following such submittal. An amending act of 1938²⁹ further empowers the Minister to request from the Prices Commission a review of customs duties. In March 1939, this Commission took over also the function of a tariff commission, an advisory body created in July 1926³⁰ to assist the Government in passing on applications from industries for duty changes.

Tariff-agreement powers.

The 1932 act also authorizes the Executive to introduce and alter preferential rates, and, as indicated, to apply duties to particular countries, under the same 8 months' proviso. The Executive, therefore, has adequate authority to enforce provisionally duty reductions by agreement with British or foreign countries.

Nontariff import controls.

Eire has a system of global import quotas for about 40 commodity classifications, which system was introduced under a Control of Imports Act, passed on March 23, 1934, and revised in 1937. In exceptional cases, however, a country quota is fixed for the United Kingdom. Import permits are required for a few other commodities. Foreign-exchange control was authorized on September 9, 1939, and was introduced shortly thereafter.

EL SALVADOR

In El Salvador the discretionary powers of the Executive are limited to admitting necessities, irrespective of source, at the minimum rates of a trade-balancing tariff. Import permits are required

²⁵ The Upper House (Seanad Eireann) is corporative, and 11 of its 60 members are nominated by the Prime Minister. The Dail Eireann is the Lower House.

²⁶ Public Statutes, 1932, No. 20, art. 12.

²⁷ Customs Duties (Preferential Rates) Act, art. 3.

²⁸ Public General Acts, 1937, No. 28, p. 463, arts. 5 and 6, superseding the Control of Prices Act (Public General Acts, 1932, No. 33, p. 611), which first established the Prices Commission.

²⁹ Prices Commission (Extension of Functions) Act (Public General Acts, 1938, No. 15, p. 1).

³⁰ Tariff Commission Act (Public General Acts, 1926, No. 40, p. 525), subsequently amended and repealed by Tariff Commission (Repeal) Act (Public General Acts, 1939, No. 6, p. 1).

for cotton. The legislature is a single chamber called *Asamblea Nacional Legislativa*.

Autonomous tariff powers.

A law effective September 1, 1934,³¹ established a three-column tariff (later reduced to two columns)³² for trade-balancing purposes, and directed the Executive to apply a legislative formula in classifying all countries for the application of the different columns according to their trade balances with El Salvador. The Executive, however, may apply the rates of the minimum column to selected commodities from all countries irrespective of trade balances, if their importation is considered necessary.³³

Tariff-agreement powers.

Prior legislative approval is required for import-duty reductions in commercial agreements.

Nontariff import controls.

Neither quotas nor exchange control has been established in El Salvador. Only the importation of cotton is restricted, permit to import this commodity being required.

ESTONIA

Before the virtual absorption of Estonia by the Soviet Union in August 1940, the Executive had power to change import duties autonomously during a recess of the legislature (*Riigikogu*), subject to subsequent legislative approval. Although the Constitution stipulated prior approval for the enforcement of bilateral agreements, tariff agreements were sometimes enforced provisionally a short time before such approval was obtained. The lower house by a three-fifths vote could override rejections or amendments of the upper house.³⁴ Estonia had a governmental import monopoly, administered by means of a system of import permits, and had also foreign-exchange control. A customs union with the Soviet Union took effect on December 10, 1940.

Autonomous tariff powers.

After obtaining independence from the Soviet Union by the treaty of Tartu, of February 2, 1920, Estonia continued in effect the previous

³¹ Legislative decree No. 67, June 23, 1934 (*Diario Oficial* No. 143, July 3).

³² The two-column tariff, likewise dependent on trade balances, was substituted and the earlier intermediate column suppressed by a law November 27, 1936, to become effective May 20, 1937 (legislative decree No. 107, November 27, 1936). The effective date was postponed until August 15, 1937, by a law of May 20, 1937 (legislative decree No. 53).

³³ Legislative decree No. 67, June 23, 1934, art. 3.

³⁴ Estonia had three regular constitutions. The first, effective December 20, 1920, established a cabinet system of government with a single legislative chamber (*Riigikogu*) elected by proportional representation. The second, effective January 24, 1934, reduced the membership by half and empowered the President to legislate by decree, but a dictatorship to combat fascism was established on March 12 following, and elections for the new legislature never took place. On March 20 political parties were dissolved and, on October 2, the legislature was prorogued.

The third constitution, effective January 1, 1938, reintroduced a cabinet form of government, with two legislative chambers. The Chamber of Deputies (*Riigivolikogu*) was elected by majority instead of proportional vote, but candidates for election had to have the approval of the Government. The National Council (*Riiginõukogu*) had 40 members, of which 6 served ex officio, 10 were appointed by the President, and the remainder were appointed from various institutions and corporative organizations (art. 84). Only the Chamber of Deputies might force the Cabinet to retire; and, as stated, it might also override, by a three-fifths majority, decisions of the National Council (art. 95).

Russian import tariff. A decree of January 3, 1921,³⁵ based on paragraph 12a of the "order" establishing a provisional government in Estonia, authorized the Minister of Finance, in agreement with the Minister of Commerce and Industry, to fix import duties at any level and also to levy them either in gold or in foreign exchange. This authority, with any duty changes made by virtue of it, was to remain in effect only until the end of the year (1921) unless the legislature should decide otherwise. By a law of December 16, 1921³⁶ the legislature extended it until a new import tariff should be enacted.

The introduction of the new tariff was, however, long delayed, and before its enactment the authority was revoked by a law of June 14, 1924,³⁷ which authorized the Executive (the Cabinet) merely to put into immediate effect duty increases of any amount, including duties on commodities previously free of duty, which were incorporated in bills submitted to the legislature. The law of 1924 was amended in 1931 and 1932³⁸ to empower the Executive also to reduce or remove duties, the first amendment being designed to permit the introduction of a tariff revision (effected on July 20, 1931) which was not yet fully prepared by a Tariff Commission when the legislature desired to adjourn.³⁹ Finally these various measures were consolidated, with some alteration, in a law of June 28, 1933,⁴⁰ which authorized the Executive to put into effect upward or downward revisions in the tariff, or to make duty-free goods dutiable or vice versa, provided a bill should be simultaneously drawn up for submission to the legislature; but the authority to reduce or remove rates was to expire on February 1, 1935.

This law was in force when the President of Estonia assumed complete control over the tariff by the assumption of dictatorial powers on March 12, 1934. In the absence of legislative restraint, the President alone had the authority to put into effect agreements providing for reductions in import duties. Minor discretionary authority to make tariff changes was delegated by the President to members of the Cabinet, as, for example, to the Minister for Economic Affairs to reduce or remove the duties on raw materials for Estonian industries or on commodities imported as compensation for exported manufactured products.⁴¹

A new Constitution was proclaimed on September 3, 1937, to become effective on January 1, 1938, and the new legislature convened on April 21, 1938. Under this Constitution (art. 99), the Executive

³⁵ Decree No. 32 (Riigi Teataja, the official gazette, No. 4, January 18, 1921, p. 27). This decree and the laws cited in the two following notes were translated by Dr. F. A. Speck of the U. S. Department of Labor.

³⁶ Law No. 271 (Riigi Teataja, No. 117, December 23, 1921, p. 670).

³⁷ Law No. 43 (Riigi Teataja, No. 81/82, June 27, 1924, p. 509). This law did not revoke duty changes already introduced under the 1921 authorization.

³⁸ Amendments of June 30, 1931, effective July 18 (Riigi Teataja, 1931, No. 54), and of July 29, 1932 (Riigi Teataja, 1932, No. 62, law No. 514).

³⁹ A so-called empowerment act of November 25, 1932, entitled "Law regarding the restoration of the State budgetary balance, the regulation of private enterprise, and the checking of unemployment" (Riigi Teataja, No. 92, December 6, 1932), authorized the Executive, without subsequent approval of the legislature, to put into effect measures relevant to the stipulated purposes of the act (art. 1), and in particular to levy a temporary tax upon imports for the benefit of a fund for export subsidies (art. 5). For this purpose, a decree of December 12, 1932, placed a tax of 15 percent on all payments to foreign account, including payments for imports.

⁴⁰ Riigi Teataja, No. 57, July 6, 1933, p. 721; and Deutsches Handels-Archiv, 1933, p. 2089.

⁴¹ Art. 191 of a customs law of September 2, 1936, issued in the form of a Presidential decree (Riigi Teataja, No. 74, September 15, 1936; and Deutsches Handels-Archiv, 1937, p. 1827).

might, during a recess of the legislature, issue decrees with the force of law in case of urgent national necessity; but such decrees had to be submitted at the next session of the legislature, which might amend or abrogate them.

Tariff-agreement powers.

Under the 1938 Constitution prior legislative approval was required for putting bilateral agreements into effect (art. 101);⁴² however, the President might stipulate that the question of approval should be voted in a joint session of the two legislative chambers (art. 102).

A law⁴³ which added a second, higher column of rates to the import tariff on September 15, 1928, also gave the Executive discretionary authority to extend until January 1, 1929, the previous, lower-column rates to countries not entitled to them by agreement, in order to allow a period of grace for the conclusion of relevant negotiations. As far as can be ascertained, this period was not extended.

Nontariff import controls.

Foreign-exchange control had been in effect since October 23, 1931. Import permits were required for most commodities. In September 1938, a special committee was established to control the issuance of import permits and the allotment of foreign exchange. Exchange permits were granted at the time of issuance of import permits. The import-permit system was based on a governmental import monopoly authorized by law No. 670 of November 6, 1931.

ETHIOPIA (Abyssinia)

The situation in Ethiopia before the Italian occupation was as follows:

Changes in import duties were put into effect by executive decree. A Constitution was proclaimed on July 16, 1931, providing for two advisory chambers whose members were nominated by the Emperor.

FINLAND

In Finland the Executive has authority to alter within prescribed limits the import duties on designated commodities, either autonomously or in tariff agreements, without subsequent legislative approval, and may provisionally put into effect proposed duty increases above the prescribed limits, or on other commodities, subject to refund if not subsequently approved by the legislature, a single chamber called *Eduskunta*. Finland introduced import-permit requirements and foreign-exchange control shortly after the outbreak of the present European war.

Autonomous tariff powers.

Since the early 1920's the Cabinet (Council of State) has had the power to change within specified limits the import duties on certain

⁴² This article stated that certain categories of agreements were recognized by law as not requiring legislative approval or as subject to such approval by a special procedure. Tariff agreements were sometimes enforced provisionally before legislative approval, which, however, followed shortly thereafter. Information is not available concerning the powers utilized by the Executive on such occasions, but it is not unlikely that the general powers to issue decrees during legislative recess were used for this purpose.

⁴³ Law of May 15, 1928 (*Riigi Teataja*, No. 39, May 15, 1928).

commodities designated by the legislature.⁴⁴ The number of designated commodities tended to increase until in 1937 it included 630 out of 961 tariff classifications. In the new tariff, effective January 1, 1939, the proportion is much smaller. The range of permitted variation, up or down, underwent some change in the first few years but for a long period only increases in the rates fixed by the legislature have been permitted, with four times those rates as the upper limit.⁴⁵ The power to raise duties on certain specified products has been contingent upon the receipt from Finnish producers of guaranties against price increases not justified by increased costs of production.⁴⁶ At the same time as the customary annual tariff revisions by the legislature take effect, the Cabinet puts into force substantially higher rates than the legislative rates for a very large proportion of the commodities whose rates it is authorized to increase by the respective revisions. The Cabinet, therefore, is always in a position to raise or lower, within limits, a large number of the rates actually in effect at any given time.

For some years the Executive has had the power to put into effect duty increases proposed for the ensuing calendar year as soon as they are confirmed by the President, subject to appropriate refund if lower duties are put into effect on the first of January of the new year.⁴⁷

Tariff-agreement powers.

The Constitution (art. 33) requires that every treaty be ratified by the legislature if it contains stipulations falling within the domain of legislation, such as tariff changes. However, duty reductions in agreements do not require legislative approval if made for commodities on which the Cabinet has raised the rates and if such reductions do not go below the basic legislative rates.⁴⁸

Nontariff import controls.

Prior to the European war, import permits were required for only a few commodities. A licensing board to control imports was established by a decree of September 7, 1939. A complete system of import licensing was introduced on September 18, and foreign-exchange control on October 26, 1939.⁴⁹ A decree of September 5, 1940, immediately effective, established a Foreign Trade Delegation composed in part of businessmen to allot permits to individual importers and to advise the licensing board concerning the protection and expansion of Finnish foreign trade.

There are a few quotas specified in trade agreements.

⁴⁴ These commodities are usually called starred items because they are marked with an asterisk in the tariff schedule.

⁴⁵ Finland issued annual provisional tariff laws until a definitive tariff took effect on January 1, 1939. Art. 5 of the tariff law for 1921 placed the upper limit at 10 times the basic rates, but art. 2 of the law for 1922 (Finland's Statutes, 1921, No. 280) reduced it to 4 times the basic rates, at which level it has since remained. This same article authorized the Executive to reduce the duties on other designated commodities by not more than one-third, but this provision was continued only in the law for 1923. (See *Betaenkning kommission, Copenhagen, 1930, appendix section on Finland, pp. 205-207.*)

⁴⁶ For example, art. 3 of tariff law for 1937 (Finland's Statutes, 1936, No. 427).
⁴⁷ The most recent enactment of this provision was a law of April 25, 1936 (Finland's Statutes, 1936, No. 107), which is effective through 1940.

⁴⁸ An emergency law of December 31, 1931 (Finland's Statutes, 1931, No. 386; and *Deutsches Handels-Archiv, 1932, p. 371*), effective only through March 1932, granted the President broad powers over foreign trade when the legislature was not in session. The legislature, however, reserved the right to revoke any action taken. For an interpretation of what these powers covered, namely, partial import restrictions and reciprocal concessions, see *Kommersiella Meddelanden, 1932, p. 126.*

⁴⁹ Exchange control was introduced on October 5, 1931, to be in effect not longer than the end of the year, and was not renewed. Shortly after the introduction of this control, Finland abandoned the gold standard.

FRANCE⁵⁰

The following discussion shows the development of executive powers in France up to the time of German occupation of part of the country. In unoccupied territory, under a constitutional law of July 10, 1940, there was established the position of Chief of the State to supplant both the President and the Prime Minister. The Chief of the State appoints and removes the members of the Council of Ministers. Together with this Council he has full legislative powers until a new legislature is formed and may assume such powers by his own decision, even after the formation of a legislature, in case of great external tension or internal crisis.

At the time of German occupation, the Executive had unlimited authority, under general powers granted for the duration of the European war, to put into effect changes in import duties either autonomously or in commercial agreements; and even before the war could do so under various emergency acts, subject to subsequent legislative approval. Such executive powers have also been substantial in normal times. France had import quotas allocated between countries on a proportional or on a bargaining basis, and after the outbreak of the war it had also foreign-exchange control and universal import-permit requirements.

Normal tariff powers.

Under French constitutional law the power to make tariff laws and to impose customs duties, with certain exceptions, was reserved to the legislative branch of the Government, or Parliament, consisting of the Chamber of Deputies and the Senate. The Executive had the authority to negotiate treaties of commerce, which, however, became effective only after being approved by both legislative bodies. Parliament, however, might delegate certain powers of increasing, decreasing, or suspending tariff duties, whether autonomously or by convention, to the executive branch, commonly referred to as "the Government," which consisted of the President of the Republic and his Cabinet.

In normal times the legislature retained its power over the tariff and fixed the limits within which the Executive might apply the various rates of the French multiple-column tariff to the products of different countries. The legislature, however, had conferred upon the Executive the power to act in the following cases.

Autonomous tariff powers.—The Government had the power, based on a law dating from 1814,⁵¹ to decree the suspension of duties partially or totally, but only in case of urgency, on certain raw materials necessary for manufactures.

A law of March 29, 1887, designed to permit executive control of the cost of living, empowered the Government, "in exceptional circumstances and when the price of bread became a menacing tax on the public food supply," to suspend by decree, in the absence of the Chambers and subject to their approval at the next session of Parliament, all or part of the import duties on certain enumerated breadstuffs.⁵²

⁵⁰ For details of measures prior to 1932, see Edgard Allix, *Les droits de douane*, 1932, vol. 1, ch. 8: "De l'autorité compétente pour établir les tarifs douaniers," pp. 283-296.

⁵¹ French Code des Douanes, art. 7.

⁵² *Ibid.*, art. 8.

Of great importance in time of national emergency was a law of July 12, 1906,⁵³ covering practically the same breadstuffs as the law of 1887, with some additional products, which authorized the Executive, in the event of general mobilization of the Army in continental France, to suspend the duties on wheat (grain and flour), oats, barley, salt meats, and dried vegetables (beans and lentils). This law permitted the issuance of decrees by the Council of Ministers without submission to Parliament for approval, but duties reduced under this authority had to be restored as soon as circumstances permitted. Owing to the fact that an emergency might arise before actual mobilization took place, a law of July 11, 1938,⁵⁴ permitted the Council of Ministers to regulate or prohibit the importation of the commodities mentioned not only in case of mobilization, but also in the face of prospective aggression by a foreign power, or at times of foreign unrest which might appear to require prompt action for national defense.

The "loi du cadenas," or padlock law, of December 13, 1897, amended from time to time, authorized the French Government to increase by decree the import duties on certain enumerated vegetable and animal products. A bill for the ratification of each decree had to be presented to the Chamber of Deputies within 5 days after signature of the decree, or if the Chamber was not in session, at the beginning of its next session. If the bill was not approved, the additional duties already collected were refunded.

Powers to adjust duties to currency fluctuations.—Under a law of May 6, 1916, extended by various laws⁵⁵ but allowed to expire at the end of 1922, the Executive was able, without legislative approval, to alter the real level of import duties by means of so-called coefficients, or duty multipliers, designed primarily to adjust specific duties to price fluctuations. A decree of July 8, 1919, introduced these coefficients, which originally varied from 1.1 to 3, corresponding to duty increases of from 10 to 200 percent.⁵⁶ In many cases the coefficients did not correspond to price changes; for some products they were relatively greater than the increase in price, but for a greater number of products, they were relatively less. The coefficients in force at the end of 1922 became stabilized when the power of the Executive to alter them expired.⁵⁷

When the French currency again declined, a law of August 3, 1926⁵⁸ authorized the Executive, until the promulgation of a contemplated tariff revision, to adjust import duties to the value of the currency without legislative approval. This short-lived power, how-

⁵³ French Code des Douanes, art. 10.

⁵⁴ Arts. 1 and 46 of the law contained in the French Codified Customs Law, February 1939 edition, art. 22 bis and 23 bis.

⁵⁵ For examples, see Journal Officiel of January 1, 1921, and January 1, 1922. These laws empowered the Executive to put into effect duty increases without legislative approval. The 1916 law revived a power conferred by art. 34 of a law of December 17, 1814, but revoked by art. 3 of the tariff law of 1910.

⁵⁶ These coefficients superseded ad valorem duty surtaxes introduced for the same purpose by a decree of June 14, 1919 (Journal Officiel, June 18), when most of the wartime import prohibitions were revoked.

⁵⁷ In all, 65 decrees were issued affecting 3,294 tariff positions (Allix, op. cit., p. 86). In general, throughout the period 1919-22, the average of the coefficients fluctuated between 3 and 4, but coefficients on individual commodities ranged as high as 10 (Allix, op. cit., p. 88).

⁵⁸ Art. 13 (Journal Officiel, August 3).

ever, was not utilized to change the relative levels of the import duties.⁵⁹

Tariff-agreement powers.—The Executive had authority without legislative approval to extend the minimum tariff under limited conditions to certain countries without correlative concessions. Of much greater scope was its power to negotiate commercial agreements with foreign countries in which reciprocal concessions were made. By decrees issued in the Council of Ministers, the Government was authorized without submission to the legislature to apply the lowest tariff column by commercial agreement to the following classes of articles.⁶⁰

(1) In whole or in part to products originating in countries which benefited from the French conventional tariffs prior to February 1, 1892, and which agreed to accord most-favored-nation treatment to French goods. France reserved the right to cancel such obligations on 12 months' notice, although in most cases the notice had been reduced to 3 months.

(2) To products originating in countries which gave correlative advantages to French goods and applied to them their lowest tariffs.

The French tariff law, in addition to permitting the Executive to extend the lowest tariff column to certain countries under special conditions, authorized the Government to negotiate trade agreements with foreign countries, in which percentage reductions from the highest tariff column might be made in exchange for concessions.⁶¹ Such concessions were not necessarily limited by the lowest-column rates.⁶² The agreements had to be made for a definite period and became effective by executive decree issued in the Council of Ministers.⁶³ The law required that they should be submitted for ratification to Parliament immediately if the Chambers were in session, otherwise at the opening of the next session.⁶⁴

Extraordinary powers (enabling acts).

By virtue of parliamentary delegation of power to legislate by decree the Executive had been able to alter import duties for extensive periods in recent years, subject to subsequent approval by the legislature and provided that no import duties on certain agricultural and forest products enumerated in the "padlock law" should be reduced. The Executive exercised powers of this kind from February 28, 1934,⁶⁵ to December 31, 1936; from July 9, 1937,⁶⁶ to December 31,

⁵⁹ The principal or only action under this law was a general increase of 30 percent in the specific duties by a decree of August 14, 1926. This was in addition to a like increase effected by a law of April 6 of the same year.

Of interest also was a provision in a bill (No. 3352) for tariff revision, submitted August 11, 1926, but never enacted, which contemplated periodic, automatic adjustment by executive action of specific import duties to prices whenever the index of wholesale prices varied by more than 20 percent from the level obtaining at the last adjustment. Reservations of the right to make such increases were included in some French tariff agreements (Allix, *op. cit.*, pp. 125 and 129).

⁶⁰ Code des Douanes, 1935, art. 15. Based on the laws of December 29, 1891 (art. 2), and of January 11, 1891 (art. 1).

⁶¹ A law of July 27, 1937 (art. 1), authorized the Executive to put into effect changes in import duties (with specified exceptions) for a period of 3 months. The aim was to bring current commercial negotiations with Germany to a head.

⁶² The intermediate tariff column consisted entirely of conventional rates.

⁶³ Code des Douanes, art. 15. This authorization dated from the law of July 19, 1910, and a decree of October 6, 1926, which introduced the method of calculating the reductions from the maximum rates. Under the 1910 law, the reductions were calculated as percentages of the differences between maximum and minimum rates.

⁶⁴ Code des Douanes, art. 18.

⁶⁵ Journal Officiel, March 3, 1934, p. 2478.

⁶⁶ *Ibid.*, July 10, 1937.

1938;⁸⁷ and again, for purposes of national economy and defense, from March 19 to November 30, 1939.⁸⁸ On December 8, 1939,⁸⁹ the Executive was granted unlimited powers for the duration of the war.

Import-duty reductions in commercial agreements are also covered by these various delegations of decree powers.

Nontariff import controls.

Prior to the wartime control, the most outstanding example of such controls over imports in France in recent years was the import quota system. From the inception of this system in 1931 down to 1933 the French Government distributed its quotas among leading foreign countries according to the trade in previous years. Later it took the position, in effect, that the most-favored-nation obligation did not apply to the quota system and that the amount of imports of articles subject to quotas might be arbitrarily allotted without equitable relation to the prior distribution of trade. France, therefore, adopted the practice of setting basic quotas allocated on the basis of trade in earlier years, but often supplemented by additional quotas in order to maintain freedom of action by having available quota concessions to use for bargaining purposes. This position was modified to the extent of pledging to certain countries, including the United States, the United Kingdom, and Germany, fair treatment in regard to existing and future quotas as determined by the proportion of total imports supplied in prior representative periods.

After the outbreak of hostilities, France exercised nontariff control over imports also through the operation of an exchange-control law of September 9, 1939.

All imports were subject to permit requirements at the time of German occupation. By a law of August 6, 1940, the Vichy Government set up a Bureau of Foreign Exchange in the Ministry of Finance to control import permits and commercial clearings in anticipation of a return to more normal trade relations with such countries as might be permitted under regulations in process of formulation. After early October 1940, transit permits issued by the German legation at Berne were required for Swiss exports passing through unoccupied France.

GERMANY

Adolf Hitler became Chancellor of Germany on January 30, 1933, and since that date has exercised practically supreme governmental power. Germany has foreign-exchange control and import-permit requirements.

General description of the powers of the National Socialist Government.

The supremacy of the Hitler Cabinet (and consequently that of Hitler, since his legal competence to appoint and dismiss other members of the Cabinet is unrestricted) was legally confirmed by the so-called Enabling Act of March 24, 1933. In this act the Reichstag conferred almost unlimited law-making powers on the Cabinet; even alterations of the Constitution were authorized. If

⁸⁷ *Annales des Douanes*, April 28, 1938, and June 30, 1938, give extensions.

⁸⁸ *Journal Officiel*, March 20, 1939.

⁸⁹ *Ibid.*, December 10, 1939.

any limitation on Hitler's authority remained, it was removed when, on the death of President von Hindenburg on August 2, 1934, the office of President was abolished and the functions of that office combined with those of the Chancellorship. Since that time, Hitler has been officially known as Führer and Chancellor.

Despite great changes in the form of the German Government after the advent of the National Socialist regime, regulations affecting Germany's foreign trade continued generally to be put into effect under laws and decrees promulgated before Hitler came into power, or under reenactments of such measures. The powers over foreign trade conferred on the Cabinet by such measures were sufficiently broad to permit the Hitler government to pursue its active and flexible trade policy. The changes in import duties and other trade regulations effected under the National Socialist regime have thus been made in accord with earlier provisions, despite the fact that the nature of the changes which may be made by administrative action, if occasion requires, is to all intents and purposes unlimited. In fact, the distinction between laws enacted by the legislature, executive decrees, and administrative regulations has ceased to be significant. The approval by the Reichsrat (Federal Council) of any Cabinet action is no longer required (that body was in fact abolished in 1934), and the Reichstag (legislature) no longer has the power to force repeal of any measures which the administrative officials put into effect. Indeed, under "the leader principle," which is at the basis of the legal system, no change in any regulation or procedure established or maintained by the will of the Führer may be advocated in the Reichstag or elsewhere. Regulations affecting Germany's foreign trade, therefore, are not debated in the Reichstag, and the actions of that body concerning trade policy as well as other matters consist in approving such measures as the Cabinet may adopt.

The power of the Executive to alter import duties is, therefore, unlimited. Moreover, a much more direct and flexible control is exercised by the administrative officials over German foreign trade through import licenses, exchange control, and other such devices, than it would be possible to maintain through the tariff alone.

Legal development of executive powers.

From a strictly legalistic point of view, the National Socialist Government has enforced import-duty changes under the following provisions whose antecedents are given in retrospect in order to show the legal development of trade-control administration.

The Enabling Act of March 24, 1933,⁷⁰ extended on January 30, 1937, for a further period of 4 years, authorizes the National Socialist Government to exercise legislative functions, including specifically the putting into force of all treaties, without the requirement of legislative approval. On April 4, 1933, the Cabinet in turn authorized the Minister of Foreign Affairs, in urgent cases, to put into effect any commercial agreement provisionally, pending its approval by the Cabinet.⁷¹

In general, the Cabinet has not operated under the Enabling Act to put into effect autonomous import-duty changes, but under a

⁷⁰ Reichsgesetzblatt, 1933, pt. I, p. 141.

⁷¹ Ibid., 1933, pt. I, p. 102.

Presidential decree of March 9, 1932,⁷² which empowered the Cabinet in urgent cases to change import duties at will subject to revocation on demand by the Reichsrat (Federal Council, abolished in 1934), and to put into force commercial agreements provisionally, subject to annulment on demand by the Reichstag (the legislature). The power concerning commercial agreements was superseded by that referred to in the preceding paragraph. The provisions of the decree of March 9, 1932, are exactly the same as in a Presidential decree of December 1, 1931,⁷³ effective only until the next session of the Reichstag. The President derived his authority for issuing these decrees from the Constitution (art. 48), which bestowed emergency powers enabling him to take any measure necessary for the restoration of public order and safety when seriously endangered. The President might issue such decrees, whether the Reichstag was in session or not, but was obliged to repeal them on its demand.

The first of the Presidential decrees mentioned above, that of December 1, 1931, was employed to extend indefinitely import-duty changes established by the Brüning Cabinet by virtue of a law of March 28, 1931.⁷⁴ This law, effective until March 31, 1932, authorized the Executive, in urgent cases and as long as the Brüning Cabinet then in power did not retire, to decree any duty changes on agricultural and related products, subject to repeal on demand by the Reichsrat. This law contained also the provision regarding commercial agreements included in the Presidential decrees.⁷⁵

Nontariff import controls.

Before the National Socialist regime the protection afforded to German agriculture by the tariff was supplemented by special measures, such as milling and mixing regulations. Moreover, certain agricultural commodities were under the control of official monopolies. Under the Hitler government the monopoly system was extended to all products competitive with German agriculture and, as will be indicated below, somewhat similar administration was later provided for the entire German import trade.

Since July 1931, foreign-exchange transactions have been subject to official control. From October 1931 to the summer of 1934, foreign-exchange allocations were limited to monthly quotas, with almost exclusive preference for established importers, normal trade requirements, and vitally necessary imports.

Beginning March 1934 the import trade was much more stringently regulated than it had been previously. The more stringent import regulations consisted of temporary prohibitions on imports of certain commodities and more restrictive prohibitions on imports of foreign-exchange control. This control included application of the foreign-exchange quotas and the introduction of a schedule of priorities in releasing foreign exchange even to importers nominally entitled to certain amounts of foreign exchange on the basis of their past business.

⁷² *Ibid.*, 1932, pt. I, p. 121. Since April 1939, provisions in reenactments of the basic tariff measures have served as authority for autonomous import-duty changes by the Executive.

⁷³ *Ibid.*, 1931, pt. I, p. 689.

⁷⁴ *Ibid.*, pt. I, p. 101.

⁷⁵ The preceding statement outlines the basic developments with respect to executive tariff control during the period of transition from the Weimar Republic to the present regime in Germany. Previous executive authority over import duties was more limited. The tariff law of 1902 included authority to apply only various types of punitive rates, while the tariff revision law of 1925 empowered the Executive in urgent cases to change or abolish import duties, subject to prior approval by the Reichsrat and by a committee of the Reichstag.

In September 1934 a comprehensive system of import control was established. This system, still in effect, is operated by 30 commodity control boards, which issue permits to importers. Four of these boards consist of the agricultural monopolies referred to above.⁷⁶ The exchange and import control has been modified in some degree through clearing and compensation agreements, also as a result of the fact that Germany has employed private compensation procedure, so-called inland accounts,⁷⁷ in financing certain portions of its foreign trade.

In addition to these regulations, providing for import and foreign-exchange permits, a provision dating originally from the World War period and reenacted on March 25, 1939, introduced export as well as import and exchange permits. It is difficult to determine the significance of this law since under the exchange control and other powers a very flexible and direct governmental regulation of both export and import trade was already in operation.

A ministerial decree of May 14, 1940, authorized specified ministers to subject transit trade through Germany to permit requirements, and an order of August 29 subjected the transit of most Swiss products to permits issued by the German legation in Berne. By the end of 1940, incorporation as integral parts of the customs area of "Greater Germany" was substantially complete with respect to the following formerly independent countries or parts of countries: Austria, Sudetenland, Danzig, Memel, western Poland, Luxemburg, Bohemia-Moravia, Eupen, Malmedy, and Moresnet, and, in part, Alsace; and German foreign exchange restrictions were operative in Alsace and Lorraine. Furthermore, imports into Germany from occupied Netherland territory were duty-free; and the trade and payments of German-occupied areas with continental European countries was largely under the supervision of German control officials.

GREECE

At present the Greek Executive exercises all legislative functions. Greece has foreign-exchange control, quotas, and import-permit requirements.

Present authoritarian regime.

The Executive (the Ministerial Council acting with the approval of the King) has exercised full legislative functions by means of so-called emergency laws since the dissolution of the legislature on August 4, 1936. For over a year prior to this event, the Executive had been ruling by means of decrees based on resolutions of the Fifth National Assembly.⁷⁸

⁷⁶ The commodity control boards, other than the agricultural monopolies, were referred to as *Überwachungsstellen* until August 1939, when they were given the same designation as the agricultural monopolies, namely, *Reichsstellen*.

⁷⁷ Inland accounts consist of deposits which German importers may with special permission make in German banks for the account of foreign exporters from whom they have obtained specified categories of goods. The foreign exporters are permitted to use the funds in these accounts to pay under certain conditions for German goods to be exported, usually only to their own countries. The funds in inland accounts are most frequently designated as *Sondermarken* or *askimarks*.

⁷⁸ A resolution of July 5, 1935 (*Ephemeris*, the official gazette, vol. I, No. 310, July 11; and *Deutsches Handels-Archiv*, 1935, p. 3803), countenanced all executive measures taken from March 1 to July 1 of that year, but reserved the right to revoke them by law. Several subsequent tariff changes by decree were based on this resolution and on another of October 10, 1935, which abolished the Greek Republic. The Republic was established by a plebiscite of April 13, 1924, and the Monarchy definitely restored by a plebiscite of November 8, 1935.

The Executive has delegated the following powers to individual ministers:

The Minister of Finance has authority to put into effect tariff agreements which have been approved and signed by the King, also, at the instance of the Minister of Market Control, to apply the lowest or conventional import duties to countries with which Greece has no commercial agreements.⁷⁹

The Ministers of National Economy and of Finance may assess duty surtaxes, called premiums, on any commodities for emergency purposes but primarily for stabilizing prices of certain essential imported foodstuffs.⁸⁰ This power is very broad, being applicable also to stocks already imported, domestic stocks, or exports. There is no legal limit to the height of the premiums, which may be either specific or ad valorem and may be assessed on all or on only specific shipments of the commodities in question.

Preceding regime.

General tariff powers.—The import tariff of December 22, 1923,⁸¹ authorized the Executive, after consulting a special committee of Government officials, to fix and alter the general conversion ratio between the metallic drachma, in which duties are stated, and the paper drachma, with which they are paid, and, furthermore, to specify for individual commodities ratios higher or lower than the general ratio. This provision, in particular, amounted to power to alter import duties, up or down, with no limit stated, and without subsequent approval by the legislature.

A law of April 29, 1932,⁸² concerning chiefly nontariff controls, went still further, and empowered the Ministers of National Economy and Finance acting alone to increase import duties without limit. A law for the fostering of mining and metal industries⁸³ was cited as the authority for raising by decree some of the duties on metals in 1935.

Powers related to double-column tariff.—The law of December 22, 1923 (art. 1), also introduced a double-column tariff, the lower column for States entitled thereto by agreement, but authorized the Executive to apply the lower-column rates on condition of reciprocity to States having no such agreement with Greece, and, if deemed advisable, to individual commodities from any source.⁸⁴

A law of December 31, 1931,⁸⁵ increased the higher-column rates ten-fold, but authorized the Executive, on the suggestion of the Ministers of Foreign Affairs, Finance, and National Economy, to reduce these rates to any extent for some or all imports from indi-

⁷⁹ Law No. 2144, enacted by the Executive, December 6, 1930 (Ephemeris, December 14).

⁸⁰ Emergency law No. 2254, enacted by the Executive, March 22, 1940 (Ephemeris, March 23), art. 1. This law amplifies a similar authority granted by emergency law No. 1900 of 1930.

⁸¹ Art. 4 (Deutsches Handels-Archiv, 1925, p. 442). This tariff was issued by the Executive under general decrees powers delegated by art. 1 of a decision of a Revolutionary Committee of September 15, 1922. Art. 2, which was extensively used, authorized the Ministers of Finance and National Economy, after consulting a committee of customs experts, to set up new classifications for commodities not named in the tariff, with duties not to exceed the equivalent of 40 percent ad valorem.

⁸² Law No. 5420, art. 1 (Ephemeris, vol. I, No. 137, April 29, 1932; and Deutsches Handels-Archiv, 1932, p. 2152).

⁸³ Law No. 5715, art. 2. See Deutsches Handels-Archiv, 1935 and 1936, for examples.

⁸⁴ See Deutsches Handels-Archiv, 1926, p. 331, for first list of such commodities, revoked 6 years later by law No. 5312, art. 3.

⁸⁵ Law No. 5312, art. 2 (Ephemeris, vol. I, No. 432, December 31, 1931; and Deutsches Handels-Archiv, 1932, p. 1120).

vidual nonagreement States, provided such reductions did not go below the lower-column rates. The usual practice under this authorization was to apply the previous higher-column rates.⁸⁶ The Executive thus had authority virtually to put into effect a multiple-column system. Measures introduced under this power might likewise be revoked. The same ministers might also introduce rates at any level in the higher column for commodities previously duty-free in that column, but might not alter duty-free treatment under the lower column.⁸⁷

Subsequent legislative approval was not required for measures taken under any of these tariff and multiple-column powers. There is, however, an advisory Permanent Commission for the Study of the Customs Tariff and Commercial Conventions.⁸⁸

Tariff-agreement powers.—The Executive had no authority to grant duties below the lower column without prior legislative approval, but might negotiate at pleasure concerning the immense margin above this limit.

Nontariff trade barriers.

Foreign-exchange control was introduced by a law of September 28, 1931. Quotas (introduced on May 15, 1932) and import permits have also been extensively employed. A comprehensive revised system of import control, effective July 1, 1935, distributed all commodities among nine groups, each of which has been subject to a different procedure. For about half of these groups global quotas were established, which in some cases were allocated to importers according to a definite system, but were seldom so allocated by countries. In September 1939, another change occurred. All imports were subjected to special authorization by the Minister of National Economy. Compulsory associations of importers operating under Government supervision were established for some commodity lines, and imports by the associations were allocated to their members in proportion to previous imports. New import-control regulations were issued on March 1, 1940, which entailed a substantial return to the earlier system for commodities not controlled by the associations.

After the outbreak of war with Italy, Greece suspended the last vestiges of the import-quota system, subjected all private imports to special permits for each shipment, and created a centralized purchasing agency for essential commodities, especially foodstuffs. This agency had a branch office in New York.

GUATEMALA

In Guatemala the Executive has power to alter import duties, when the legislature, a single chamber called *Asamblea Nacional Legislativa*, is not in session, subject to subsequent legislative approval, also to admit the necessities irrespective of origin at the lower-column rates of a trade-balancing tariff. Guatemala has no nontariff import controls.

⁸⁶ For example, a decree of May 26, 1934, so reduced the duties on all compensation-trade imports from nonagreement countries (*Ephemeris*, vol. 1, No. 192, June 19, 1934; and *Deutsches Handels-Archiv*, 1934, p. 3495).

⁸⁷ Law No. 5312, art. 1, par. 2.

⁸⁸ Established by law No. 843, September 2, 1917, and reorganized by Presidential decree of August 4, 1930, and royal decree of April 24, 1936 (respectively *Ephemeris*, vol. 2, No. 187 of September 5, 1917; vol. 1, No. 278 of August 9, 1930; and vol. 1, No. 194 of May 8, 1936).

Autonomous tariff powers.

The Constitution⁸⁰ authorizes the Executive to issue decrees with the force of laws during a recess of the legislature. Such measures must be submitted to the legislature for approval during the first 15 days of its next ordinary session. This authorization is frequently cited by the Executive in making tariff changes.

Specific authority to alter import duties in any manner and not limited to legislative recess periods, with the requirement of opportune submittal to the legislature, was granted to the Executive from May 1932 to May 1936.⁸⁰ This authority has apparently not been renewed.

A trade-balancing import surtax, amounting to 100 percent of the duties in force, was introduced in January 1935,⁸¹ and is still in effect. By a decree of January 25, 1936,⁸² the Minister of Finance is authorized to exempt from the surtax, irrespective of country of origin or trade balance, commodities necessary for the national economy.

Tariff-agreement powers.

Agreements for the reduction of import duties must be approved by the legislature before they are put into force by the Executive.

HAITI

The Haitian Executive (Council of State) has emergency powers to legislate by decree for the protection of consumers, also constitutional powers to issue decree laws between legislative sessions subject to approval by a permanent legislative committee and subsequent report to the legislature, a single chamber called National Assembly (this procedure applies also to commercial agreements). Haiti has no nontariff import controls.

Autonomous tariff powers.

Following the outbreak of the European war, a law of September 12, 1939,⁸³ authorized the Executive to take such measures as may be necessary for the effective protection of the consuming public of Haiti, by means of executive decrees or resolutions with the force of law.

The Constitution authorizes the Executive of Haiti to issue decree laws during a recess of the National Assembly, with the approval of a Permanent Legislative Committee selected by the legislature, the president of which committee is authorized to countersign such decree laws and is required to report the committee's participation to the next ordinary session of the legislature.⁸⁴ These executive powers as applied to the tariff are exemplified by the increase in the general import surtax to one-fifth, from one-tenth, of the duties by a decree law of November 29, 1937.⁸⁵

A law of April 9, 1935,⁸⁶ introduced a double-column tariff, and stipulates that the lower column shall be applied to countries with

⁸⁰ Constitution of 1879, art. 77, sec. 23, as amended.
⁸¹ Legislative decrees No. 1819, May 2, 1932, and No. 1982, April 20, 1934, which extended the authorization for a second 2-year period.
⁸² Executive decree No. 1629, January 26.
⁸³ Executive decree No. 1773, art. 4.
⁸⁴ Summarized in U. S. Commerce Reports, November 18, 1939, p. 1069.
⁸⁵ Constitution of June 2, 1935, art. 30.
⁸⁶ Summarized in U. S. Commerce Reports, January 8, 1938, p. 41.
⁸⁷ Le Moniteur No. 31, April 15. The higher-column rates are double the lower-column rates.

which agreements to this effect are concluded, but gives the Executive discretionary authority to apply the lower column also to countries which in fact accord Haiti unconditional most-favored-nation treatment, provided that during the fiscal year 1932-33 they took at least 1 percent of Haitian exports or supplied not over one-half percent of Haitian imports.

Tariff-agreement powers.

The President may make treaties, changing tariff rates, but such treaties become effective only upon ratification by the legislature.⁸⁷

HONDURAS

The Executive in Honduras does not have the power to alter import duties, either autonomously or in tariff agreements, prior to legislative approval.⁸⁸ The legislature is a single chamber called the Congreso Nacional. Honduras has foreign-exchange control and exchange quotas allocated to importers.

Autonomous tariff powers.

Under a trade-balancing triple-column tariff inaugurated in January 1938⁸⁹ and abolished in February 1939,¹ the Executive had discretionary power to apply the lowest rates to commodities not obtainable in countries entitled to these rates under the trade-balancing provisions, and to raw materials and articles of prime necessity, irrespective of the country of origin.

Nontariff import controls.

Exchange restrictions have been in force since June 1, 1934. Each month, after the available exchange has been determined, a percentage thereof is fixed for imports, by means of quotas assigned to importers, based upon their actual importations over a specified period. No import permits are required, except for certain radio equipment, most of which, however, was not subjected to this restriction until December 1940.

HUNGARY

In Hungary the Executive² has practically unlimited authority to increase duties, also to reduce them in commercial agreements, and furthermore has authority autonomously to reduce or suspend duties on some classes of commodities. Merely a report to the legislature is required.³ Hungary has import-permit requirements and foreign-exchange control.

⁸⁷ Constitution of June 2, 1935, art. 28, sec. 5.

⁸⁸ According to the Constitution of 1930 (art. 101, sec. 25) the Executive may not put into effect treaties involving duty changes without reference to the legislature.

⁸⁹ Congressional decree No. 9, published December 21, 1937, and effective 30 days thereafter (summarized in U. S. Commerce Reports, January 22, 1938, p. 85).

¹ Congressional decree No. 29, published January 19, 1939, and effective 20 days thereafter (summarized in U. S. Commerce Reports, February 25, 1939, p. 190).

² A Regent and a Council of Ministers. Since 1920, royal functions have been exercised by a Regent, who by a law of July 17, 1933, is empowered to dissolve the legislature, and by a law of July 15, 1937, is no longer responsible to the legislature.

³ The members of the upper legislative chamber (Felsőház) are ex officio, appointed, or elected by special groups.

Autonomous tariff powers.

In 1920 a law⁴ empowered the Executive to alter the tariff in view of the extraordinary conditions following the World War. Executive action under this authority had to be reported to the legislature.

This law was superseded by a new tariff law, effective since January 1, 1925,⁵ which authorizes the Executive (1) to increase import duties without limit whenever required for the benefit of important Hungarian branches of production, and to reverse such action; (2) to suspend import duties on necessities of life during periods of scarcity; and (3) temporarily to reduce or remove import duties on necessary raw and auxiliary industrial materials produced in Hungary only in negligible proportion to the demand. The Executive needs only to report to the legislature all measures taken under those powers. The same law (art. 7) further authorizes the Minister of Finance under specified conditions to reduce or remove import duties on river vessels, machinery, and equipment. Various decrees issued under this law have given designated ministers the power to alter specified duties.⁶ However, article 3 of the law expressly stated that the Executive might not utilize the tariff powers conferred in the law in order to put into force tariff provisions in commercial agreements.

Tariff-agreement powers.

Briefly stated, the Executive had legal authority, not used in practice, prior to 1925 to put into effect, without legislative approval, tariff concessions valid only through the current year; had no such authority from 1925 to July 1, 1931; and since then, except for the first semester of 1932, has had power to put into force tariff agreements valid for not over 3 years and terminable on not more than 6 months' notice. These variations are the result of three series of enabling measures concerning commercial agreements.

The first series, beginning in 1920, authorized the Executive to put into effect, subject only to report to the legislature, commercial agreements whose periods of validity did not extend beyond December 31 of the current year.⁷ At that time the Danubian States were concerned with liberalizing the prohibitions on foreign trade originally introduced during the World War, and in general were not concluding tariff agreements. Moreover the time limitation in these enabling measures rendered their use impracticable for the putting into effect of tariff agreements.⁸

⁴ Law XXII, art. 1 (Budapesti Közlöny, the official gazette, No. 203, September 4; and Deutsches Handels-Archiv, 1920, p. 523). Specifically this provision authorized the Executive to make any changes in the Austro-Hungarian tariff law of 1907, which had been adopted by Hungary. Art. 2 sanctioned tariff changes already made by the Executive after August 7, 1919, when the present regime superseded the short-lived Communist Government.

The sources in Hungarian utilized in the preparation of this section were consulted by Mr. Leslie Lovass, an economist on the Tariff Commission's staff.

⁵ Art. 2, law XXI of July 20, 1924, Országos Törvénytár—Corpus Juris—August 3, 1924; and Deutsches Handels-Archiv, 1925, p. 134.

⁶ See Legislative Informationsdienst for examples.

⁷ Law XXI, August 27, 1920 (Budapesti Közlöny, No. 203, September 4; and Deutsches Handels-Archiv, 1921, p. 49); law XIII, February 24, 1923 (Budapesti Közlöny, No. 46, February 27; Handels-Archiv, 1923, p. 476); law I, February 7, 1924 (Országos Törvénytár, February 10; Handels-Archiv, 1924, p. 1252); and law II, April 2, 1925 (Országos Törvénytár, April 7; Handels-Archiv, 1925, p. 1345). It is understood that similar enabling measures (texts not available) were issued in 1921, 1922, and 1926.

⁸ By inference, however, the powers conferred before 1925 could have been so used in theory, since the 1925 law contained a new article expressly stipulating that this law did not invalidate art. 3 of the new tariff law, which excluded the putting into force by executive action of tariff provisions in commercial agreements.

The enabling acts of the second series (1927-32)⁹ were each valid for 2 years. They empowered the Executive to put into force, subject only to report to the legislature, commercial agreements with a nonterminable duration of not over 3 years and terminable on not longer than 6 months' notice, but excluded tariff concessions with the exception of those resulting automatically from the grant of most-favored-nation treatment. The law for 1931-32, however, was amended for the second semester of each of these 2 years by laws permitting the inclusion of new tariff concessions in agreements put into effect under its authority.¹⁰

The enabling acts of the third series (since 1933)¹¹ have been like those of the second series, except that they include (in art. 2) the amendment permitting tariff concessions.

Nontariff import controls.

Import-permit requirements were introduced in October 1930 for specified products of nonagreement countries, and were subsequently extended in scope as regards both commodities and countries, especially since the outbreak of the war. Foreign-exchange control was introduced in July 1931, and a system of charging premiums for foreign exchange in December 1932. In March 1940, a Foreign Trade Office was reorganized to exercise constant supervision over all foreign trade.

ICELAND

Executive tariff powers in Iceland have been extremely limited.

The Executive¹² has had some powers to grant duty or surtax exemptions,¹³ and to apply a surtax of 25 percent ad valorem, except on grains, if the pound sterling was worth 25 or more Icelandic crowns.¹⁴

A law of December 31, 1937,¹⁵ effective January 1, 1938, levied a supplementary import duty of 11 percent of the existing rates on all regular import duties, and authorized the Executive to increase the supplementary duty to 12 percent of existing rates, if the Executive exercised a power granted by the same law to remove the import duty on salt and to refund to fishing steamers the duty levied on coal used for salt fishing. The Executive exercised these powers in the

⁹ Law XV, June 1, 1927, for 1927 (effective retroactively from January 1) and 1928 (Országos Törvénytár, July 3; and Deutsches Handels-Archiv, 1928, p. 1631); law XLV, December 29, 1928, for 1929-30 (Országos Törvénytár, December 31; Handels-Archiv, 1929, p. 434), and law XLVI, December 30, 1930, for 1931-32 (Országos Törvénytár, December 31; Handels-Archiv, 1931, p. 604).

¹⁰ Law XIV of 1931 (Országos Törvénytár, July 1; and Deutsches Handels-Archiv, 1931, p. 2137); and law XV, June 30, 1932 (Országos Törvénytár, July 1; Handels-Archiv, 1932, p. 1790). No tariff agreements were concluded in 1932 until June, and these were put into effect in July under law XV. In the period 1925-31, the legislature occasionally authorized the Executive to put into effect specific tariff agreements by decree prior to formal legislative ratification. (For example, see law XLVI of 1930, art. 3.)

¹¹ Law XX, December 30, 1932, for 1933-34 (Országos Törvénytár, December 31; Deutsches Handels-Archiv, 1933, p. 421); law XXV, December 29, 1934, for 1935-36 (Országos Törvénytár, December 31; Handels-Archiv, 1937, p. 2901); and law XXXIV, December 23, 1936 (Országos Törvénytár, December 31; and Legislativer Informationsdienst, 13605/1519). It is probable that there is a similar law (text not available) for 1939-40.

¹² By an act of union of November 30, 1918, Iceland was recognized as a sovereign State, united with Denmark in a dual monarchy. The Executive is the King acting through a Cabinet of Icelandic ministers responsible to the Icelandic Legislature. After occupation of Denmark by Germany, Iceland dissolved the union with Denmark.

¹³ Deutsches Handels-Archiv, 1918, p. 268, and 1924, p. 1722.

¹⁴ Law of March 27, 1924 (cited in Deutsches Handels-Archiv, 1924, p. 1722).

¹⁵ Board of Trade Journal, January 27, 1938.

spring of 1938,¹⁶ and a new tariff law of December 30, 1939,¹⁷ canceled former tariff laws regarding duties.

In May 1940, an amendment to the tariff law authorized the Minister of Finance to remove import duties on materials for boxes used for exports of fish and on ordinary lumber if not further worked than sawed in appropriate lengths.¹⁸

Foreign-exchange control has been in effect since February 1932, and prior permits have been required for the importation of some commodities.

INDIA—BURMA

Although import duties are normally imposed and altered in India by the legislature, the Executive (the Governor-General-in-Council) may remove or reduce import duties either autonomously or in commercial agreements, and may adjust protective duties up or down in order to adapt them to changing conditions. No legislative approval is required. India has import quotas on Japanese piece goods, and since the outbreak of the war has introduced foreign-exchange control and import-permit requirements for some commodities.

Autonomous tariff powers.

The Executive has power to reduce or remove import duties on any commodity imported into India by sea or to reduce or remove them on commodities imported through any particular port or ports which the Executive may specify.¹⁹ This power is normally exercised only in urgent cases, or for purposes of experiment, pending anticipated further changes.

The Executive may also alter any "protective"²⁰ duty, either up or down, if satisfied, after inquiry, that the current duty has become ineffective or excessive.²¹ A Tariff Board was established in 1923 to investigate claims of particular industries for protective duties and to make recommendations.²²

The powers referred to relate indirectly also to imports over the land frontier, since the Executive may apply duties levied on imports at any port to corresponding imports by land.²³

No legislative approval is required for action taken under any of the powers mentioned above.

When legislative approval is sought, or is required, as for increases in "revenue" duties, if either chamber of the legislature refuses to introduce a bill proposed by the Executive or fails to pass such a bill in the form introduced, the Executive may nevertheless enforce the provisions of the bill provided it is passed by the other chamber and is necessary to the safety or interests of the country.²⁴ A substantial number

¹⁶ Board of Trade Journal, April 14, 1938.

¹⁷ No. 62 (published in *Islands Adressbog*, 1940).

¹⁸ *Kommerseella Meddelanden*, 1940, pp. 450, 451.

¹⁹ Maritime Customs Act, VIII of 1878, sec. 23. The Tariff Act XXXII of 1934, sec. 11, specifically empowers the Executive to reduce or remove the duty on wheat and to reduce the duty on wheat flour, but not below 20 percent ad valorem, if such duties become unnecessary or excessive.

²⁰ The Tariff of India officially designates some rates as "protective" and other rates as for revenue.

²¹ Tariff Act, XXXII of 1934, sec. 4.

²² Legislative Resolution No. 3748, February 16, 1923 (*Gazette of India*, July 14, 1923, p. 826).

²³ Tariff Act XXXII of 1934, sec. 5.

²⁴ Government of India Act, 1935 (26 Geo. V, ch. 2), schedule 9, sec. 67B.

of the legislators, especially in the upper chamber (Council of State) are Government officials or nominees.²⁵

Tariff-agreement powers.

Duty reductions required to implement a commercial agreement may be made without legislative approval only if they are within the general powers of the Executive herein described, but since the Executive has the power to reduce or remove import duties, any limitation on the scope of executive action in this regard is self-imposed. Moreover, until recently, most commercial agreements were negotiated on behalf of India by the Foreign Office of the United Kingdom.

Nontariff import controls.

Since 1934 India has had quotas on imports of cotton piece goods from Japan by agreement with the Japanese Government. Since the outbreak of the present European war, the Indian Government has introduced several measures limiting dealings in foreign exchange, but these measures do not in practice restrict the purchase of foreign exchange for legitimate commercial transactions. However, in order to conserve exchange, a substantial list of commodities from non-British sources was subjected to import-permit requirements on May 27, 1940, and a few commodities of British Empire origin.²⁶ Permits are allocated both by importers and by countries of origin on the basis of past trade.

Burma.

On April 1, 1937, Burma became a separate governmental unit with independent tariff jurisdiction. In general, executive powers and import controls are closely patterned on those prevailing in India. Foreign-exchange control was introduced on September 4, 1939, and import-permit requirements on June 15, 1940, for the importation of specified classes of goods from nonsterling countries.

IRAN (Persia)

In Iran, executive powers over tariff rates are now very limited, but nontariff import controls are all-embracing. In general, the legislature, a single chamber called Majlis, rarely opposes administration policies, and there are no political parties.

Autonomous tariff powers.

The 1936 tariff law²⁷ empowers the Executive to increase import duties up to double the existing amounts for any commodity on which an import prohibition in effect at the time of the law's enactment is superseded by the authorization of imports under quota.

Tariff-agreement powers.

The tariff law of 1928, which contained two columns of rates, authorized the Executive to conclude commercial agreements for a duration of not over 8 years with duty reductions not extending below the rates of the lower column. An 8-year agreement, concluded almost immediately with the United Kingdom, bound all the lower-column rates. Since Iran traditionally accords equal tariff treatment to all

²⁵ Namely, 28 out of 60 in the upper chamber and 43 out of 145 in the lower chamber (Keith, *The Government of the British Empire*, p. 551).

²⁶ The import-permit requirements applied also to nonsterling British countries, but were removed in a few weeks from most Canadian products.

²⁷ Art. 6, law of May 21, 1936 (*Deutsches Handels-Archiv*, 1937, p. 4005).

countries, the Executive by this action virtually exhausted its power to reduce tariff rates by commercial agreements and accepted rates fixed for 8 years.

The tariff law of 1936 was enacted when Iran regained complete control over its tariff rates at the expiration of the agreement with the United Kingdom. It contained only one column of rates, and authorized the Executive (in art. 5) to grant duty concessions in agreements of not over 1 year's duration, provided the rates granted are not lower than those in the single column of the tariff. Executive powers in this respect are thus limited to binding import duties or to removing such punitive rates as may be applied.²⁸

Nontariff import controls.

A law of February 25, 1931,²⁹ established a Government monopoly over foreign trade, which in practice is largely an import-permit system functioning within limits set by global quotas. These quotas are fixed annually on designated products for allocation among importers; the importation of other products is reserved to the Government.

Foreign-exchange control has been in effect since 1936.

IRAQ

Iraq was a British mandate until October 3, 1932, and used the customs regime of British India, with amendments, until repealed by a codified customs law of 1931³⁰ and a tariff law of 1933. Members of the upper house (Senate) are appointed by the King. The legislature was dissolved on February 23, 1939, because of failure to cooperate with the Government. The present lower house, elected on June 5, 1939, has cooperated.

The tariff law of April 29, 1933,³¹ authorizes the Executive to remove or reduce the import duties on wheat and barley in case of a shortage in Iraq.

A law of March 16, 1939³² (issued during dissolution of the legislature), to foster industrial development, grants exemption from import duties for 15 years for machinery, apparatus, and equipment or parts for the same, imported for their own use by industrial establishments which meet certain specified conditions. The Minister of Finance decides which establishments meet those conditions.

In 1935, by an amendment to the tariff law, the Executive was empowered to apply import quotas on any commodity. On September 10, 1939, there was authorized the establishment of a control board to prohibit or license the importation of any specified commodities; a few commodities have since been subjected to import-permit requirements.

²⁸ The answer to the Tariff Commission's questionnaire states that "In actual practice [tariff] treaties occasionally are put into effect prior to ratification by the Majlis." The authority for such action is not stated.

²⁹ *Messenger de Téhéran*, March 13, 1931; and *Deutsches Handels-Archiv*, 1931, p. 1338. ³⁰ Customs Code Law, No. 58, May 7 (supplement to Iraq Government Gazette, No. 25, June 14).

³¹ Customs Tariff Law No. 11, art. 6 (Iraq Government Gazette, No. 1235, April 29; and *Deutsches Handels-Archiv*, 1933, p. 2538).

³² No. 14, arts. 1 and 3 (Iraq Government Gazette, No. 13, March 31; and *Deutsches Handels-Archiv*, 1929, p. 1331). Provisions of this nature, which are in effect in a number of countries, e. g., Italy, are in general not included in this report, but the relative absence of executive tariff powers in Iraq warrants inclusion in this case.

ITALY

By an enabling law of 1926, the Executive in Italy has power to legislate by decree on practically all matters, including tariff changes and tariff agreements, subject to subsequent perfunctory approval by the legislature. The members of the upper chamber (Senate) are either Princes of the Royal House or are nominated for life by the King. The lower chamber has been completely corporative and Fascist (Chamber of Fasci and Guilds) since March 1939, and was previously (from 1929) based chiefly on vocational representation. Under the Fascist electoral system, membership in the Chamber of Deputies, as the lower house was called before March 1939, was also dependent on Executive approval and largely a reward for Fascist Party activity.

Italy has import-permit requirements and foreign-exchange control.

Tariff powers.

Under a broad interpretation of the Constitution (art. 6) the Executive frequently used decrees to introduce important measures. A complete tariff revision, effective July 1, 1921, was enforced by such a decree of June 9, 1921,³³ which further authorized the Cabinet to alter import duties when required by changed conditions of production or of international trade. The decree power was defined and amplified by a law of January 31, 1926,³⁴ which authorized the Executive in urgent cases to legislate by so-called decree laws. Only the legislature may question the urgency of a decree law, which need not be presented to it for approval until the third session after taking effect. In any case, a decree law expires after 2 years unless approved, but legislative approval is perfunctory. By virtue of this enabling law, a decree of August 9, 1926,³⁵ empowered the Minister of Finance, until June 30, 1927, in conjunction with other specified ministers, to increase import duties, such changes to be reported to the legislature monthly. From that date until October 1936, most import-duty changes were put into force as urgent matters by decree laws based directly on the enabling act of 1926. Duty reductions in commercial agreements have all been enforced under this authority.

For purposes of even greater expedition, decree laws have been issued authorizing specified members of the Government, in particular circumstances, to alter import duties and other import charges, by means of simple decrees not requiring legislative approval. Among such decree laws the most important, issued simultaneously with the devaluation of the lira in October 1936,³⁶ authorized the head of the Government, in accord with specified ministers, to alter by simple decree any import charges to any extent for the purpose of preventing price increases. Since that time, most of the important duty changes, including special remissions or exemptions and duty-free tariff quotas, have been made under this authorization.

Furthermore, measures antedating the enabling law of 1926, but still employed, authorize the Executive, by decrees sometimes subject

³³ Royal decree law No. 806 (Gazzetta Ufficiale, June 30, 1921).

³⁴ Law No. 25, art. 3 (Gazzetta Ufficiale, February 1, 1926).

³⁵ Royal decree law No. 1482 (Gazzetta Ufficiale, September 6, 1926; and Deutsches Handels-Archiv, 1926, p. 1800).

³⁶ Royal decree law No. 1747, art. 2 (Gazzetta Ufficiale, October 5, 1936; and Deutsches Handels-Archiv, 1936, p. 3098).

to subsequent legislative approval, to make particular tariff changes, for example, to alter the preferential duties on imports from Italian colonies,³⁷ and to exempt from duty temporary imports other than those legally provided for.³⁸

Nontariff import controls.

Foreign-exchange control, import-permit requirements, and import quotas (the so-called *bolletta* system) were adopted as a general system early in 1935 but had been used in special cases since 1931 or 1932 in retaliation against individual countries employing such devices to the detriment of Italian exports. Commodities were divided into three groups, namely, those under the *bolletta* system, those subject to import permits, and a small number subject to neither of these controls. Commodities were progressively transferred from the *bolletta* group to the import-permit group, which, always the most important group, became in time the dominant group.

The *bolletta* quotas were at first allocated by countries according to percentages of 1934 imports, which percentages varied by commodities but not by countries. Subsequently, however, the basic commodity percentages were reduced, and larger percentages were accorded to some countries by agreement. On July 1, 1939, the basic percentages were abolished, and imports from countries not accorded special percentages were subjected to import permits. On January 1, 1940, the *bolletta* system was entirely abolished; all imports, except the few exempted items, were subjected to import permits; and the only quotas remaining were individual country quotas based on agreement obligations to issue import permits freely up to designated amounts.

A substantial proportion of total imports are controlled by various governmental or semiofficial monopolies, including certain pools which trade in specified commodities whether produced in Italy or imported. Most other imports are controlled by a series of commodity boards, called *giunte*, functioning under the supervision of the Ministry of Foreign Trade and Exchange, and through the corporative organs in the allocation of import permits to individual importers.

In the early autumn of 1940, the transit through Italy of certain Swiss commodities was subjected to permits issued by the Italian diplomatic representative in Berne.

JAPAN

In Japan the Executive has had since 1938 unlimited power to alter import duties, either autonomously or in commercial agreements, and had large tariff powers before that time. Japan has foreign-exchange control, import-permit requirements, and some import quotas in commercial agreements.

Autonomous tariff powers.

A national mobilization law, passed as an emergency measure by the Diet on March 24, 1938, authorizes the Executive among other

³⁷ Royal decree No. 1797 of November 23, 1921 (*Gazzetta Ufficiale*, December 22, 1921; and *Deutsches Handels-Archiv*, 1926, p. 105).

³⁸ Royal decree No. 1313 of June 14, 1923 (*Gazzetta Ufficiale*, June 27, 1923; and *Deutsches Handels-Archiv*, 1923, p. 634), which altered the relevant provisions in the basic royal decree, No. 1453, of December 18, 1913 (*Handels-Archiv*, 1914, vol. 1, p. 410).

things to increase or decrease import duties, without limit and without subsequently obtaining approval of the Diet or the Privy Council.

Other powers which will remain in force, unless modified or suspended, if the provision of the mobilization law terminates are as follows:

The Constitution (art. 8) authorizes the Cabinet after consulting the Privy Council to issue emergency decrees on any matter when the Diet is not in session, subject to the Diet's approval in its next session.³⁹ If the Diet fails to approve such a decree, it becomes thenceforth invalid.

The tariff law itself, effective since 1926,⁴⁰ authorizes the Executive, without legislative approval, to generalize conventional duty reductions to States not having a most-favored-nation agreement with Japan, and to reduce the import duty on rice for a specified period in case of crop failure.

Since 1933 the Cabinet and Ministries have been given wide discretionary powers to alter import duties related to some Japanese industries. Thus, the automobile industry control law of 1936 empowered the Executive after consultation with the Tariff Investigation Commission to levy an additional duty of 50 percent ad valorem on automobiles and parts if imports interfered with the establishment of the Japanese automobile-manufacturing industry.

A law, which took effect on May 1, 1934, and was extended first to May 1, 1940, and then to May 1, 1943, authorized the Cabinet, with the approval of the Tariff Investigation Commission, to levy import duties up to 100 percent ad valorem in addition to the duties provided in the tariff law, and to reduce or suspend import duties, on commodities and for periods of time to be specified by the Cabinet.⁴¹ The purpose of this law was to permit the Executive to take such action as might be necessary to adjust trade or to safeguard commerce against measures taken by foreign countries. In fact, the authority to raise rates was used for punitive purposes in cases not covered by the previous punitive provisions of the tariff law.

Tariff-agreement powers.

There is no requirement in Japan, either in law or custom, that international agreements be approved by the Diet. The Privy Council is the only body whose approval of a particular agreement may be required (by Ordinance No. 216 of 1890) but its authority in this respect is not legally mandatory. Agreements concluded without reservation as to method of ratification are valid without the approval of the Privy Council, but the usual practice is to negotiate them subject to such approval. These considerations apply also to duty reductions by bilateral agreement, especially since both the mobilization law and the 1934 law authorized the Executive to reduce or remove import duties. Since 1928 all international agreements have been referred to the Privy Council for advice.

Nontariff import controls.

Foreign-exchange control has been applied since early 1937 to restrict some imports, principally those not essential to the conduct of

³⁹ The upper Chamber (House of Peers) of the Diet has 192 life members out of 408.
⁴⁰ Law No. 30 (Official Gazette, March 29, 1926, supplement; Board of Trade Journal, April 15, 1926, supplement; and Deutsches Handels-Archiv, 1926, p. 1015).
⁴¹ Law No. 45 of 1934, called Commerce Adjustment and Safeguarding Law (Japan Year Book, 1935, p. 443), extended by law No. 1 of May 22, 1936 (Official Gazette, May 23).

military operations. Exchange permits are required for all consignments above a stipulated monthly amount per individual importer, which amount was reduced by stages from 30,000 yen originally to 100 yen, with provisions to prevent the abuse of this limited exception. Import quotas have not been of particular importance in Japan, although the Executive has authority under various laws to place the entire import trade under a quota system. On October 10, 1937, a number of commodities were subjected to import-permit requirements, and recently these requirements were extended to practically all commodities. Japan has also made extensive use of the device of linking imports to exports. Various emergency measures confer broad powers over nontariff controls.

LATVIA

The Council of Ministers in Latvia assumed all legislative powers by a declaration of May 18, 1934, and transformed the country into an authoritarian State on a corporative basis. Latvia had foreign-exchange control, import-permit requirements, and some global quotas. It was virtually absorbed by the Soviet Union on August 5, and a customs union between the two countries took effect on December 10 following.

Previous tariff powers.

Prior to May 1934, the levying and alteration of customs duties was a constitutional right reserved to the legislature, a single chamber (Saeima). However, on June 21, 1932,⁴² the legislature had passed a law authorizing the Cabinet until the close of the current fiscal year, March 31, 1933, to increase the rates of 122 out of 217 dutiable tariff classifications and to introduce duties on duty-free commodities—all within specified limits. The maximum permissible percentage of increase for the 122 dutiable classifications was 100, 150, 200, 250, 300, or 400 percent, depending on the classification, but for the great majority of the affected classifications the limit was fixed at 100 or 150 percent. The percentages applied both to the higher and lower rates of duty, Latvia having a double-column tariff. The maximum limit for commodities previously on the free list was 10 percent ad valorem for the lower column; the higher-column rate for a given commodity, previously duty-free, could not be fixed at more than twice the lower-column rate assigned to it. It was hoped that the new duties would obviate the continuance of quantitative restrictions. The same law authorized the Cabinet to reduce the import duties on some petroleum derivatives by 35 percent. As a result a substantial revision of the tariff, within the prescribed limits, was effected by the Executive.

The Executive also had the power to apply the lower-column rates, in whole or in part, to the products of nonagreement States which did not discriminate against Lettish exports or shipping.⁴³ The tariff law

⁴² Collection of Laws, 1932, No. 133. This law was extended and amended by law No. 84 of 1933, which, among other things, enabled the Executive to decree a duty reduction on hops on August 24, 1933 (Valdības Vēstnesis, the official gazette, No. 196, August 26; and Deutsches Handels-Archiv, 1933, p. 3042). A number of authorizations to change duties on individual commodities were incorporated in the tariff schedule, for example, to reduce the duty on salted herring by not over one-half (law of July 11, 1933; published in Valdības Vēstnesis, No. 150, same date; and Handels-Archiv, 1933, p. 2604).

⁴³ Law of December 23, 1932 (Valdības Vēstnesis, No. 206, December 31, 1932; and Deutsches Handels-Archiv, 1933, p. 403). After the legislature was dissolved, the wording of this provision was altered, though not materially, by a decree of January 10, 1935 (Valdības Vēstnesis, No. 10, January 10, 1935; Handels-Archiv, 1935, p. 1138).

of March 30, 1928,⁴⁴ which established a double-column tariff, stipulated that the higher column should be applied against countries which had no agreements with Latvia to the contrary, but allowed a period of grace pending the conclusion of such agreements, which period was subsequently extended many times.

Nontariff import controls.

Foreign-exchange control had been in effect since October 1931. Global quotas were fixed for 10 commodities in October 1931, for 60 others in November of that year, and for a large number in February 1932 (at 75 percent of 1931 imports) but were allotted arbitrarily. A decree of May 31, 1934, subjected all imports to permit requirements except those exempted by a special commission. An import permit carried with it the right to obtain foreign exchange.

LIBERIA

The tariff law of December 15, 1934,⁴⁵ authorizes the President of Liberia to reduce the duties of the new tariff by percentages, either in commercial agreements or autonomously, because of particularly favorable treatment of Liberian products by foreign countries; but no duty may be reduced below the corresponding rate in the previous tariff. The duty increases of the new tariff, although substantial in relation to the previous duties, are not very great, since the previous rates were relatively low.

LITHUANIA

Prior to the war, the Lithuanian Executive had power to alter tariff rates, either autonomously or in commercial agreements, when the legislature was not in session and subject to revocation by the legislature. Complete tariff powers, without legislative limitation, were granted to the Executive by a law of September 18, 1939. Lithuania had also import-permit requirements and foreign-exchange control. Lithuania was virtually absorbed by the Soviet Union on August 3, 1940, and a customs union with that country took effect on December 10 following.

Autonomous tariff powers.

Under the three Lithuanian Constitutions of 1922, 1928, and 1938,⁴⁶ the tariff powers of the Executive were progressively increased. All three stipulated that taxes should be imposed by law, but the 1928 Constitution (art. 53) empowered the President, when the legislature (Seimas—single-chamber) was dissolved or not in session, to issue decrees binding until disposed of by the legislature. The legislature was in fact dissolved from April 17, 1927, to September 1, 1936. A single party, the Nationalist Union, was formed, and in February 1936 all other parties were officially disbanded. In the elections of June 1936, only 2 of the 49 members of the legislature were returned

⁴⁴ Art. 3 (Valdības Vēstnesis, No. 74, March 30, 1928, p. 1; and Deutsches Handels-Archiv, 1928, p. 1807).

⁴⁵ Art. 7 (Deutsches Handels-Archiv, 1935, p. 2530). This tariff was originally intended to take effect on January 1, 1935, but did not do so until February 1.

⁴⁶ Constitutions of August 6, 1922; May 16, 1928; and February 12, 1938. The Constitution of 1922 was preceded by several short-lived provisional constitutions.

by minority groups. The Constitution (art. 110) of 1938 stated simply that the President should promulgate laws when the legislature was dissolved or not in session, although article 111 somewhat qualified this provision by stipulating that the manner of exercising these broad powers should be determined by law. Both the 1928 and 1938 Constitutions authorized the President to dissolve the legislature at will.⁴⁷

In addition to general constitutional powers, the Executive had specific tariff powers, which were included in various tariff measures. In early years the Government was chiefly concerned with quantitative import restrictions, and executive powers dealt only with the imposition of provisional import prohibitions,⁴⁸ which had to be submitted within 1 month to the legislature for approval. A tariff decree of March 12, 1923,⁴⁹ added the power to alter import duties without limit under the same conditions, and in December another decree⁵⁰ shortened the period for submittal to the legislature from 1 month to 15 days and eliminated the authority to impose import prohibitions.

A definitive tariff law of December 19, 1924,⁵¹ which substituted specific rates for the ad valorem groups previously used, annulled (in art. 221) the unlimited power, but authorized the Minister of Finance, without the necessity of subsequent legislative approval, to apply a surtax of one-tenth of the duties against States with which Lithuania had no commercial agreements and to reduce the duties by three-tenths in favor of States with which it had agreements going further than the grant of most-favored-nation treatment.

After the dissolution of the legislature, an executive measure of May 14, 1928,⁵² supplanted the 1924 version of article 221 of the tariff law with a new text, which authorized the Council of Ministers (international agreements permitting) to increase, without legislative approval, any or all rates up to one and a half times the existing rates, and to increase any or all rates against nonagreement States up to three times the existing rates. On the basis of this authority, a limited number of higher rates, lower, however, than the maximum permissible, were established against nonagreement States on September 24, 1928, and were subsequently amplified, both in height of rates and in number of items affected, until in December 1931 both levels of the maximum permissible rates (that is, for agreement and nonagreement States, respectively) were applied to the whole tariff schedule, making a completely double-column tariff.

Finally, a law of September 18, 1939,⁵³ authorized the Council of

⁴⁷ Elections for a new legislature had to be held within 6 months, but the 1928 Constitution (art. 28) provided that this limit should not apply to the election of the first legislature under it, and the 1938 Constitution (art. 84) contemplated the postponement of elections because of war or other insurmountable difficulties.

⁴⁸ See tariff law enacted June 26, 1922 (Deutsches Handels-Archiv, 1922, p. 600), art. IX.

⁴⁹ Art. VIII (Deutsches Handels-Archiv, 1923, p. 428).

⁵⁰ Serial No. 1041 (Vyriausybės žinios, the official gazette, No. 145, December 24, 1923; and Deutsches Handels-Archiv, 1924, p. 200). It is not known under what authority this or the preceding decree was issued by the Council of Ministers. In the described series of measures the Minister of Finance was authorized to make the changes with the approval of the Council of Ministers.

⁵¹ Serial No. 1260 (Vyriausybės žinios, No. 187, April 3, 1925; and Deutsches Handels-Archiv, 1925, p. 1200).

⁵² Vyriausybės žinios, No. 273, May 14; and Deutsches Handels-Archiv, 1928, p. 2133.

⁵³ Vyriausybės žinios, No. 664, September 18, 1939; translated in State Department report, serial No. 8946, March 4, 1940.

Ministers, without legislative approval, to fix import duties in any manner on recommendation by the Minister of Finance. Furthermore, the Minister of Finance had been authorized since 1934 to grant the lower schedule of the Lithuanian double-column tariff, when necessity arose, to countries with which Lithuania did not have commercial agreements.⁵⁴

Tariff-agreement powers.

The powers of the Executive to put into effect tariff changes embodied in commercial agreements varied under the three constitutions. The 1922 Constitution (art. 30) required prior legislative ratification for putting into effect specified types of treaties including commercial agreements. The 1928 Constitution (art. 32) provided for prior legislative approval of all international conventions unless they dealt with matters provided for by law, but (art. 53) empowered the President to exercise the legislative function of ratifying agreements when the legislature was dissolved, or when it was not sitting and could not be convoked in extraordinary session. The 1938 Constitution (art. 112) specifically transferred the right of ratifying international agreements to the President, but stipulated that agreements which amend laws or require new laws should be presented to the legislature, if in session, for its ratification also. Agreements including new tariff rates would fall under this head, but appear also to be covered by the blanket authorization to fix import duties of September 1939.

Mention has already been made of certain powers conferred by law on the Minister of Finance to apply specified rates of duty to countries in various degrees of treaty relationship with Lithuania.

Nontariff import controls.

Import-permit requirements were established by a decree published on December 22, 1932. At first, only a few commodities were affected, but in time this control was broadened to include most imports, and on September 15, 1939, to include all imports.⁵⁵ At the same time, preferential treatment in the issuance of import permits was accorded to some essential commodities. Foreign-exchange control was introduced by a temporary law promulgated on October 1, 1935, and periodically extended.

MEXICO

Since 1938 when complete executive tariff powers were discontinued in Mexico, the Executive has had authority to suspend or reduce import duties on only a few specified products or for very special reasons. Mexico has no general nontariff import controls, but does require import permits for some textile machinery.

⁵⁴ Par. 224 of the tariff law, introduced by an executive law of December 21, 1934, effective until April 1, 1935; extended to July 1, 1935, by an executive law of March 30, and undoubtedly further extended; and made permanent by a decree of January 28, 1937, effective retroactively from January 1, (respectively Vyriausybės Žinios, No. 464 of December 22, 1934; No. 477 of March 30, 1935, and pt. I, No. 566, of January 28, 1937; and Deutsches Handels-Archiv, 1935, pp. 1802 and 3168, and 1937, p. 3042).

⁵⁵ A law of September 5, 1939, had granted emergency powers over imports to the Minister of Finance. This law was superseded by law No. 5432 (Vyriausybės Žinios, May 11, 1940), which broadened the powers conferred by authorizing him also to determine which firms might engage in foreign trade.

Autonomous tariff powers.⁶⁴

Full discretionary power to modify tariff rates was accorded the Executive and exercised extensively prior to omission of this authorization in the budget law for 1938. (The budget law for 1937⁶⁷ and earlier budget laws had empowered the Executive to introduce such modifications in the import tariff as might be deemed appropriate.) A renewed delegation of powers to the Executive was substantially precluded by an amendment of August 2, 1938, to article 49 of the Constitution, which amendment provided that extraordinary powers to legislate by decree should not be granted to the President except in the event of invasion, grave disturbance of the public order, or other emergency endangering the country.

The customs administrative law empowers the Executive to decree duty-free entry or temporary reduction of import duties for any product under conditions of local scarcity or public distress.⁶⁸

A law published February 17, 1940,⁶⁹ authorizes for 5 years the exemption of new industrial enterprises from the payment of import duties and other taxes on raw materials and machinery upon approval of applications for such exemptions by the Ministry of National Economy.

Tariff-agreement powers.

Under the Constitution the President may conclude treaties with foreign States, but must obtain ratification by the legislature before putting them into effect.⁶⁰

Nontariff import controls.

A decree of June 21, 1937, prohibited the importation, except under prior permit from the Ministry of National Economy, of all silk and rayon yarn or thread, and of machinery for weaving and knitting silk and rayon, as a measure to stabilize the domestic industry and to prevent overproduction. Increased duties were substituted for this restriction by a decree of December 31, 1937.

THE NETHERLANDS

Prior to German occupation the situation in the Netherlands was as follows: The Executive had authority to put into effect changes in import duties, both autonomously and in commercial agreements, subject to subsequent approval by the legislature (Staten-Generaal) within a year. The Netherlands had proportional quotas, additional bargaining quotas, and, after the outbreak of the war, import-permit requirements and a virtual governmental import monopoly for most commodities.

⁶⁴ An interdepartmental tariff commission, with nonvoting representation thereon by industrial, commercial, agricultural, and labor organizations, is authorized to propose to the Minister of Finance and Public Credit for submittal to the Federal Executive such modifications as it considers appropriate in the import tariff (Presidential decree of August 26, 1927, reorganizing the Mexican Tariff Commission).

⁶⁷ Art. 19 (Diario Oficial, December 31, 1936).

⁶⁸ Customs Law, August 30, 1935, art. 22 (Diario Oficial, August 31, pt. 2, p. 961).

⁶⁹ In Diario Oficial; summarized in U. S. Commerce Reports, April 18, 1940, p. 347.

⁶⁰ Constitution of 1917, arts. 89 (X) and 76 (I).

Tariff powers.

A Tariff Empowering Act of May 17, 1934⁶¹ (effective from May 20, 1934, until January 1, 1937, and extended to January 1, 1942) enabled the Government to put into provisional effect, by royal decree followed in due course by submittal of a bill to the legislature, tariff-agreement reductions and also import-duty changes deemed necessary to prevent ruination of home industries by measures taken in foreign countries. The validity of all these measures might not exceed 1 year without legislative approval, and ceased in any case when rejected by either legislative chamber. An amending law, effective January 7, 1939, specified public interest, or vital needs of Netherlands industries, rather than the ruination of industries, as the basis of Government action. Likewise, subject to legislative approval within a year, the 1934 law (art. 1) also authorized the Executive to change import duties without limit for any purpose, provided a bill proposing such changes was simultaneously submitted to the legislature.

Earlier executive powers were limited to the discretionary exemption from import duty of a few specified commodities, notably chemicals, dyestuffs, and similar substances needed as auxiliary materials,⁶² and to the exemption of essential industrial raw materials from a sales tax also levied on imports.⁶³

Government-controlled monopolies of a large number of important agricultural commodities, which had been introduced under a series of temporary and emergency acts beginning in 1931, deserve special mention, because monopoly fees, often in excess of the import duties, were levied on imports of such commodities and were frequently altered entirely independent of legislative approval.

Nontariff import controls.

An act in December 1931 authorized the application of quotas proportional to previous imports, and an amending act in November 1933 authorized the grant to individual countries of additional bargaining quotas. Import permits were required for some nonquota commodities under an Import Emergency Act reported as effective from September 12, 1939. Effective from April 8, 1940, import permits were required for practically all commodities. Permits were issued by an Import Central (Algemeene Nederlandsche Invoer Centrale, abbreviated to ANIC), to which organization the goods in question had to be consigned. The ANIC was established to facilitate trade passing through the Franco-British blockade.

NEWFOUNDLAND

Although Newfoundland has temporarily given up its independent tariff jurisdiction, the present situation is described because Newfoundland is commonly regarded as a British Dominion.

Owing to financial difficulties, Newfoundland voluntarily relinquished its status as a Dominion in the British Empire, and on De-

⁶¹ Art. 2 (Staatsblad No. 260, May 19, 1934; and Deutsches Handels-Archiv, 1934, p. 276). Art. 58 of the Constitution required prior legislative approval for the putting into force of tariff-agreement reductions.

⁶² Customs Tariff law of December 20, 1924, arts. 14-21 (Staatsblad No. 568, December 30, 1924; and Deutsches Handels-Archiv, 1925, p. 1595).

⁶³ Law of October 25, 1933, art. 17 (Staatsblad No. 546, November 7, 1933; and Deutsches Handels-Archiv, 1934, p. 209), effective January 1, 1934, for a designated period and subsequently extended.

ember 21, 1933, the British Parliament passed the Newfoundland Act suspending the Constitution of that Dominion. Until such time as the Government of Newfoundland again becomes self-supporting, full legislative and executive power is vested in the Governor acting on the advice of a Commission of Government.⁶⁴ This Commission of Government, which entered upon its duties on February 16, 1934, is responsible to the Secretary of State for Dominion Affairs in the United Kingdom.

Executive tariff powers.

Certain powers are delegated by the Newfoundland Revenue Act of 1939 to the Governor-in-Commission, but all financial measures, including tariff revisions, are subject to the approval of the Dominion Affairs Office in London before they can be enforced.

The Governor-in-Commission, at the request of the British Government, may extend to any British Dominion or dependency any preferences accorded to the United Kingdom.⁶⁵ This body may also, by Order-in-Commission, extend the benefits of the intermediate tariff to any British or foreign country, or withdraw these benefits. Such orders become effective from their date of publication in the Newfoundland Gazette.⁶⁶ The Governor-in-Commission may grant duty-free entry or reduce duties:

(1) On fish imported from countries which make tariff reductions on fish, fish products, or other articles exported from Newfoundland to such countries.⁶⁷

(2) On port or other wines, currants and sultana raisins, or other articles imported from the country of production, when it appears that the duty on codfish, the product of Newfoundland, has been, or will be reciprocally reduced.⁶⁸

(3) Under specified circumstances on articles for which it is found that prices are unduly enhanced by trusts or other combinations.⁶⁹

(4) On seed potatoes, hay, machinery, implements, or other materials necessary for Newfoundland industries.⁷⁰

Nontariff import controls.

Prior to the outbreak of the war with Germany in September 1939, there was no nontariff measure in effect in Newfoundland restricting trade, except governmental control of the importation and sale of alcoholic spirits.⁷¹ Governmental control of foreign exchange and trade was established on September 16, 1939, to be administered under a Foreign Exchange Control Board. The regulations also provided that all imports should be subject to permits to be issued by this Board.

⁶⁴ This Commission consists of six members, three from Newfoundland and three from the United Kingdom, all appointed by the United Kingdom Government. The legislature is dissolved.

⁶⁵ Newfoundland Revenue Act, effective January 1, 1939, art. 3, sec. 2.

⁶⁶ *Ibid.*, art. 4, secs. a and b.

⁶⁷ *Ibid.*, art. 16.

⁶⁸ *Ibid.*, art. 24.

⁶⁹ *Ibid.*, art. 13.

⁷⁰ *Ibid.*, arts. 20, 21, and 23.

⁷¹ Alcoholic Liquors Act, 1933.

NEW ZEALAND ⁷²

In New Zealand the Executive has numerous powers to alter import duties autonomously, usually subject to subsequent legislative approval. The most important are powers to apply the higher or the lower rates of a double-column tariff to different countries, to alter the rates of either column within the limits established by the legislature for the other column, and to change rates without limit as far as may be justified by economic considerations. Power to alter duties by tariff agreements is limited to modification of some existing agreements. Since December 1938, New Zealand has had import-permit requirements and foreign-exchange control.

Autonomous powers.

Prior to 1921, the Executive had very limited powers over tariff rates. In that year a Customs Amendment Act ⁷³ supplanted the double-column tariff (consisting essentially of British preferential and general columns) with a triple-column tariff. In general the lowest-column rates were for British countries, and the highest-column rates for foreign (non-British) countries, but the Governor-in-Council was empowered (1) to apply the intermediate-column rates, in whole or in part, to any country, British or foreign (sec. 5); this power terminated with the discontinuance of the intermediate column in 1927; (2) to apply the highest-column rates in whole or in part to any British country except the United Kingdom (sec. 6); and (3) to alter the individual rates of any column provided no rates were fixed higher than those of the highest column or lower than those of the lowest column (sec. 8). However, the lowest-column rates in effect on United Kingdom products may not be increased for such products, although they may be increased for like products of other British countries. ⁷⁴

The 1921 act conferred on the Governor-in-Council also the following powers, which are still in effect: The tariff treatment of any commodity may be altered if it operates injuriously (sec. 12), and authorized duty exemptions may be limited to the products of British countries and a duty not exceeding 25 percent ad valorem levied on like products of foreign countries (sec. 14).

The Customs Amendment Act of 1930, which introduced a surtax, usually nine-fortieths of the duty, authorized the Governor-in-Council to reduce or remove the surtax on individual commodities (sec. 5, subsec. 3). Subsequently a similar act of 1932, which removed the surtax from the products of British countries, except the Dominions, ⁷⁵ authorized the Governor-in-Council to exempt all or individual products of any such Dominion from the surtax (sec. 6, subsec. 2).

⁷² The data on New Zealand are based chiefly on a U. S. Consular Report in reply to the Tariff Commission's questionnaire.

Unless otherwise indicated, all powers discussed are still in effect. In general, any power to alter tariff treatment includes the power to revoke or amend such alterations as may be put into effect by virtue of the power.

⁷³ No. 19 of 1921. (See New Zealand Official Year Book, 1927, p. 357.)

⁷⁴ The same act included a number of "suspended" rates, more severe than the regular treatment prescribed for the relevant commodities, and empowered the Governor-in-Council to establish additional suspended rates in all three columns for any commodities entirely duty-free and to put into effect any of the suspended rates of either category (sec. 9). These powers concerning suspended rates, however, are no longer in effect.

⁷⁵ Namely, Canada, South Africa, Eire (then the Irish Free State), Newfoundland, and India. The surtax had never been applied to the products of Australia.

All of the powers already described are subject to section 31 of the Customs Amendment Act of 1921,⁷⁶ which stipulates that any action taken in pursuance of those powers, although it may be put immediately into provisional effect, must be referred to the House of Representatives⁷⁷ for approval within 14 days if the House is in session, otherwise within 14 days after the opening of the next session. If the action taken is not approved, the House may stipulate that any additional duties already collected shall be refunded. Also if duties are removed or lowered by decree (Order-in-Council) under any of these powers, the Governor-in-Council may order refunds of the difference between the prior duties and the new duties (or exemptions) on goods entered within 6 months prior to the effective date of the decree.

The Customs Amendment Act of 1931 introduced a primage duty of 3 percent ad valorem on all duty-free imports except those specifically exempted, and authorized the Governor-in-Council, without legislative approval, to exempt other commodities, or to revoke any exemption however established (sec. 4).

The Minister of Customs himself has authority, without legislative approval, to reduce duties on non-British products down to the lower-column (British preferential) rates under specified conditions,⁷⁸ and to reduce or suspend new duties or duty increases in order to combat unjustified price advances.⁷⁹

Tariff-agreement powers.

Executive powers to alter import duties by tariff agreements are limited to modifications of certain specified agreements already ratified by the legislature, which powers are conferred on the Governor-in-Council in the ratification acts themselves.⁸⁰ The Governor-in-Council, however, has some powers to effect autonomous duty changes related to tariff concessions already granted.⁸¹

A Tariff Commission was established in 1933 to recommend tariff changes to implement an agreement with the United Kingdom made at Ottawa in 1932.⁸²

Nontariff import controls.

Import-permit requirements and foreign-exchange control were introduced by a decree (Order-in-Council) of December 5, 1938, effective 2 days later. The issuance of an import permit did not guarantee the prompt receipt of foreign exchange for payment, but

⁷⁶ Expressly so stated in connection with the provisions enacted after 1921.

⁷⁷ The Parliament of New Zealand consists of two chambers, but the members of the upper house, the Legislative Council, are appointed.

⁷⁸ Namely, if like British products are not economically produced, are too high priced, are monopolized, or constitute too large a proportion of imports (Customs Amendment acts of 1927, sec. 11, and of 1930, sec. 14).

⁷⁹ Customs Amendment Act of 1930, sec. 13.

⁸⁰ For example: Acts ratifying agreements with Canada and Belgium-Luxemburg in 1932 and 1933. Although the Customs Amendment Act of 1921 stipulates that the powers to alter import duties conferred in secs. 5 to 9 (see above) may be employed for the conclusion of agreements with British or foreign countries, it further provides that such agreements may not be put into effect until ratified by the legislature (sec. 10). Those ratification acts specifically suspend this proviso for the cases in question.

⁸¹ Namely, the power to extend tariff concessions in agreements with foreign countries to other foreign countries (ratification acts), and the power to reduce the duties on products of any British country if, by reason of an agreement between New Zealand and any third country, such duties operate, or are likely to operate, to the disadvantage of the British country (Customs Amendment Act, 1921, sec. 12).

⁸² Established by proclamation of May 9, 1933 (New Zealand Gazette, No. 35, May 11, p. 1311).

in the second half of 1940 the Government would not issue import permits unless foreign exchange were available. Imports by countries are limited to specified percentages of 1938 imports. These percentages vary with the commodity and often with the country of origin, and also for a given country in different quota periods.

NICARAGUA

The Nicaraguan Executive has power to alter import duties only to adjust them to fluctuations in the value of the currency. Nicaragua has foreign-exchange control.

Autonomous tariff powers.

Because of currency depreciation, the Executive, on February 10, 1938, authorized a Commission of Exchange Control to determine the ratio at which paper cordobas are receivable in the payment of import duties and, effective March 14, 1938, the Commission fixed this ratio at 2 paper cordobas for each cordoba of duty prescribed by the tariff.⁸³ Although this action was designed to offset in part depreciation in the value of the paper cordoba, it may in a sense be regarded as a tariff change since there is no exact and periodic adjustment of the ratio to varying currency conditions.

Tariff-agreement powers.

A law, effective for a period of 3 years from September 17, 1936,⁸⁴ authorized the Executive to grant in commercial agreements reductions of not more than one-fourth of the import duties then in force and to put these agreements into effect for periods not exceeding 3 years but subject to extension if the legislature (two chambers) did not disapprove. Since the expiration of this law, prior legislative approval is required for import duty reductions by commercial agreements.

Nontariff import controls.

Foreign-exchange control has been in effect since December 1931. At various times permits issued by an Exchange Control Commission have been required before import documents could be legalized, most recently under a decree of September 23, 1939.

A law, effective September 12, 1939, and intended as an emergency measure to be valid 12 months, authorized the Executive to control imports.⁸⁵ This law has been extended for an additional 12 months.⁸⁶

NORWAY

Before German occupation the situation in Norway was as follows: Executive authority to alter import duties was confined to a few unimportant cases such as occur in many countries, including countries where much broader general powers exist. For example, the Norwegian tariff law empowered the Executive to permit duty-free importation of certain otherwise dutiable commodities in the

⁸³ Both measures are summarized in U. S. Commerce Reports, March 12, 1938, p. 252.

⁸⁴ Legislative decree, August 20, 1936 (*La Gaceta*, September 17; summarized in U. S. Commerce Reports, November 21, p. 833).

⁸⁵ Legislative decree, September 12, 1939.

⁸⁶ Legislative decree, No. 82 (*La Gaceta*, August 13, 1940).

following cases: (1) As an aid in the development of domestic industries, (2) when suitable for special purposes in wartime, and (3) when articles of like or similar type or efficiency were not produced in Norway.

Reductions of import duties in commercial agreements had to be ratified by the legislature, a single chamber (Storting), before taking effect.

Import permits were required for a few commodities, the number of which was appreciably increased after the outbreak of the war. Foreign exchange was controlled after September 1931 by private agreement between the banks and various business groups, and an unofficial system of exchange control took effect in September 1939, but exchange was freely obtainable for commercial transactions. From May 20, 1940, that is, after German occupation, all imports required certificates from the Bank of Norway stating that the foreign exchange necessary for payment would be made available.

PANAMA

In Panama the Executive has powers to alter import duties autonomously, but these powers are rather closely limited. Panama has not adopted nontariff import controls.

Autonomous tariff powers.

A law of December 27, 1938,⁸⁷ establishing an income and real-estate tax, grants the President authority to reduce import duties insofar as the revenue returns from those taxes permit.

A law effective May 4, 1937,⁸⁸ authorizes the Executive to increase consular fees within narrow limits; and this law and another of December 28, 1934,⁸⁹ authorize respectively a large but limited increase in the import duty on cooking chocolate when adequately produced in Panama, and an increase in the import duty on shoes if deemed appropriate in the national interest. Furthermore, a law of December 24, 1934,⁹⁰ empowers the Executive to remove duties from commodities not produced in Panama in order to develop the tourist trade, provided the decrees are issued at least 120 days before taking effect.

Important tariff powers now expired were as follows:

A law of February 11, 1925,⁹¹ revoked by the Tariff Law of 1934,⁹² authorized the Executive to reduce temporarily the import duties on specified commodities (mostly foodstuffs and building materials) in order to avoid unjustified price increases to consumers, and to fix the periods during which such reductions should remain in force.

The Executive introduced a tariff revision, effective in April 1934, by virtue of a law of December 20, 1932,⁹³ which granted powers until August 31, 1934, to put into force fiscal and economic measures deemed necessary for the country. The law required the Executive to devise such measures with the advice of a legislative committee

⁸⁷ No. 62 (summarized in U. S. Commerce Reports, March 4, 1939, p. 210).

⁸⁸ No. 31, January 28, 1937 (summarized in U. S. Commerce Reports, March 6, 1937, p. 100).

⁸⁹ No. 69, art. 32.

⁹⁰ No. 42, art. 4.

⁹¹ No. 29, art. 5.

⁹² No. 69, December 28.

⁹³ No. 84, arts. 5 and 6.

of three chosen by the legislature, a single chamber (Asamblea Nacional).

Tariff-agreement powers.

The Executive is not authorized to enforce import-duty reductions in commercial agreements prior to legislative approval.⁹⁴

PARAGUAY

Since the voluntary dissolution of the Congress on February 17, 1940, the Paraguayan Executive has assumed legislative functions. Paraguay has foreign-exchange control.

Specific tariff powers.

The Executive is authorized, under the tariff law of September 27, 1924,⁹⁵ to reduce or increase duties by as much as one-half and to decree new duties on duty-free goods equivalent to 50 percent ad valorem. The stipulated conditions under which this power may be exercised are so broad that they are not restrictive. Action taken under that authorization must be subsequently reported to Congress.

Since 1935 the Executive has been authorized under budget laws to increase import duties in order to offset wholly or partially any decreases in duties collected caused by alterations in the official rate of exchange.⁹⁶ Under the Constitution commercial treaties take effect only after prior approval by the Congress.⁹⁷

Nontariff import controls.

Foreign-exchange control with varying degrees of severity has been in effect in Paraguay since June 1932. An executive decree of June 2, 1939, established an import-control system under supervision of the Bank of the Republic, requiring importers to obtain advance permits for importations. This measure was discontinued by an executive decree of February 29, 1940.

PERU

Complete legislative powers exercised for a time in Peru by the Executive expired in December 1939, but the Executive still has authority to alter import duties autonomously without limit, subject to report to the legislature, and, in order to combat high prices, to lower duties on foodstuffs without such report. Peru has a few "gentlemen's agreement" quotas on Japanese textiles.

Autonomous tariff powers.

The convening of a new Congress on December 8, 1939, following the Presidential and Congressional elections of October 22, terminated the full legislative powers accorded the Executive in November 1936; these powers had been conferred by law No. 8463 of November 14, 1936, under which the Congress also voted its own dissolution.

The Executive, however, still has authority, granted by law early

⁹⁴ Constitution of 1904, art. 65, sec. 4.

⁹⁵ Art. 9c (Ley N. 667 de Tarifa y Arancel de Aduanas, Asunción, Imprenta Nacional, 1925).

⁹⁶ Law No. 53, February 4, 1939, arts. 12-14. This authorization was first granted by law No. 1502, October 20, 1935 (summarized in U. S. Commerce Reports, April 4, 1936, p. 278).

⁹⁷ Constitution of 1870, art. 72, sec. 18.

in 1935,⁶⁶ to alter import duties without limit, subject merely to the obligation of reporting such changes to the legislature. Specifically the law empowered the Executive to put into force a new customs tariff, which became effective February 1, 1936, and subsequently to make such modifications and amendments as might be advisable. The original tariff was prepared by a Customs Tariffs Advisory Board,⁶⁹ and subsequent changes under this law have usually been based on opinions submitted by this board.

Furthermore, a law of January 12, 1940,¹ confers on the President unrestricted powers to reduce the import duties on foodstuffs in order to lower prices whenever extraordinary circumstances of social necessity warrant such action.

Tariff-agreement powers.

Under the Constitution, treaties and agreements with foreign governments must be ratified by the Congress before becoming effective.² However, in order to expedite commercial treaties and agreements for the marketing of Peruvian products abroad, the Executive has been authorized, since May 9, 1940, and for the duration of the European war, to conclude and put such agreements into force provisionally during the recess of Congress.³ Furthermore, a law of June 14, 1940,⁴ authorizes the Executive, without mention of legislative approval, to grant exemptions from import duties in commercial agreements entered into for the stimulation of Peruvian industries.

Nontariff import controls.

Neither foreign-exchange control nor a general system of import permits has been introduced in Peru up to the present. Global import quotas on textile products were introduced in 1935, but were superseded in 1936 by voluntary quotas on certain Japanese textile products established by informal agreement with the Japanese Government. A resolution of May 25, 1940, provides that prior import permits must be obtained from a Directorate of Subsistence for the importation of wheat, rice, and corn. This measure was taken in order to correlate the importation of these foodstuffs with the availability of foreign exchange.

POLAND

Prior to German and Soviet occupation of Poland in 1939, the Executive had power to put into effect changes in import duties, autonomously or by provisional tariff agreements, with the sole proviso that the tariff agreements should be subsequently ratified. These tariff powers had developed as follows:

Autonomous tariff powers.

The tariff situation in Poland was very unsettled until 1924. Although the original Constitution, of March 17, 1921, delegated no

⁶⁶ Law No. 8044, passed by a constituent Congress on March 11.

⁶⁹ Established by law No. 5180 of 1926 to inform the public authorities on all matters relative to the tariff and to propose modifications in the tariff which in the judgment of the board should be introduced. Membership consists of Government officials and delegates from business associations.

¹ Congressional law, No. 9047 (El Peruano, March 9; and summarized in U. S. Commerce Reports, April 27, p. 397).

² Constitution of 1933, art. 123, sec. 21

³ Law No. 0098, promulgated May 9, 1940 (summarized in *Revista de Economía y Finanzas*, Callao, May 1940, p. 273; and in U. S. Commerce Reports, August 10, p. 691).

⁴ No. 9140 (summarized in U. S. Commerce Reports, August 17, p. 710).

tariff powers to the Executive, the Minister of Finance and the Minister of Industry and Commerce, acting together, had powers, antecedating the Constitution, to change the tariff at will, without legislative approval, as follows: Under a customs decree of June 11, 1920,⁵ the two Ministers might fix and alter ratios (called coefficients) for the conversion of the basic rates into the depreciated Polish paper currency. In practice they established a so-called normal ratio to be applied to commodities for which they desired merely to adjust the rates approximately to the existing currency conditions. The resulting rates were called the normal rates. If the Ministers desired to raise the rates on any commodities above the normal level, they decreed higher ratios for them, but when they desired to reduce any rates below normal, they sometimes abolished the rates entirely, or fixed them at designated percentages of the normal rates, under a decision by the Council of Ministers of May 26, and another by the Sejm (the lower legislative chamber) of August 1, 1919.⁶

In 1924, with the adoption of the gold standard for the currency, the tariff situation was finally regularized. The Council of Ministers introduced some tariff changes and finally a complete new tariff on July 13, by virtue of powers delegated in a law of January 11 of that year,⁷ concerning reform of the public finances and the currency. The new rates were expressed in the current Polish monetary unit, and the currency ratios were discontinued. In the same month, a new customs law⁸ granted tariff powers to be exercised by the Minister of Finance, until the stabilization of economic conditions, in agreement with the Minister of Industry and Commerce and the Minister of Agriculture and Land Reform. Specifically the Minister might for temporary periods decree duty concessions for necessities or for materials required by Polish industry or agriculture (art. 7b). Under this authority a list of commodities to be admitted, sometimes only by special permit, duty-free or at designated percentages of the regular duties, was issued and was continued periodically with alterations. The Minister might also increase or reduce clearance fees collected by the customs (art. 7e), fees very substantial in Poland, and finally he might decree such changes in the new tariff as became absolutely necessary because of changing economic or territorial conditions (art. 7i). This last authority was used for supposedly permanent changes, either up or down, in the basic rates. Except as regards the customs clearance fees, the Minister's decrees had to be submitted for approval to the Sejm, immediately if in session, otherwise at the first meeting of the next session, and lost effect immediately if rejected by that body (art. 8).

As stated, the first Constitution⁹ of the reestablished Polish State conferred no powers on the Executive to alter tariff rates, but an amending act of August 2, 1926,¹⁰ conferred decree powers on the President, during recess of the legislature, over all matters, with certain exceptions, among which was the fixing of customs duties,

⁵ Art. 14 (Deutsches Handels-Archiv, 1920, p. 541).

⁶ For an example, see decree of December 13, 1923 (Dziennik Ustaw, the Journal of Laws, No. 135, December 28, Item 1120; and Deutsches Handels-Archiv, 1924, p. 293).

⁷ Arts. 1 and 2. For the new tariff see Deutsches Handels-Archiv, 1924, p. 1419.

⁸ Dated July 31, 1924, effective September 30 (Dziennik Ustaw, No. 80, September 15, Item No. 777; and Deutsches Handels-Archiv, 1924, p. 1849).

⁹ Adopted by act of March 17, 1921 (Dziennik Ustaw, 1921, No. 44, Item 267).

¹⁰ Dziennik Ustaw, 1926, No. 78, Item 442, p. 879, art. 5, which added three paragraphs to art. 44 of the Constitution.

and stipulated that the legislature could by law extend those powers to all matters except constitutional amendments. Decrees issued under these powers had to be signed by the premier and all the ministers and were to lose effect if not submitted to the Sejm within 14 days after the first meeting of the following session or if rejected by that body. A law of the same date,¹¹ valid until the next session, extended these powers to various matters including the reduction of customs duties but expressly excluded duty increases. The legislature customarily passed similar laws on adjourning, and in time included the power also to raise rates. As regards tariff matters, this power was used for decrees of such importance that they could not well be issued under the authority of the customs law, and the decrees were usually issued a year in advance of the dates they were to take effect. Thus a complete tariff revision was introduced by a decree of August 23, 1932, based on an enabling law of March 17, 1932, and took effect October 11, 1933; and a decree of October 27, 1933,¹² based on an enabling law of March 25, of that year,¹³ superseded the 1924 customs law and became effective on October 30, 1934. The important substantive changes from the 1924 law were: (1) The power to raise duties was transferred from the Ministers of Finance, Commerce, and Agriculture to the whole Council of Ministers, who might also reduce rates; (2) none of the powers of the three Ministers to reduce rates was designated as temporary; (3) these Ministers received powers also concerning duty refunds and temporary imports so broad in scope as to constitute virtually a further authorization to remove or reduce duties on any articles used in the production of exported commodities; and (4) subsequent legislative approval was not required for any of the powers conferred in the decree.¹⁴ Thus by a decree requiring legislative approval, the Executive removed the requirement of such approval from the specific tariff powers previously held under the customs law.

A new Constitution, of April 23, 1935,¹⁵ (arts. 55 and 51) virtually continued the provisions of article 44 of the preceding Constitution as amended in 1926, except that the specific requirement concerning legislative approval was superseded by the statement that decrees issued under this authorization might be amended or suspended only by a law passed in due course by the legislature. As formerly, however, special enabling laws were required to remove the fixing of customs duties from the list of exceptions to the general authorization. The 1935 Constitution and the customs decree of 1933 were still in effect in September 1939. Only the National Unity Movement, established in 1937, had representation in the legislature, although other political groups still existed outside it.

Tariff-agreement powers.

Under the 1921 Constitution (art. 49) commercial or tariff treaties required the approval of the Sejm before taking effect. Such treaties

¹¹ Dziennik Ustaw, 1926, No. 78, item 443, p. 880.

¹² Dziennik Ustaw, October 29, No. 84, item 610; and Deutsches Handels-Archiv, 1934, p. 1847.

¹³ Ibid., No. 20, item 249.

¹⁴ Art. 136, par. 2, revoked 1924 law; art. 23, par. 1a included the powers of the three Ministers, and art. 13, par. 5a those of the Council of Ministers. There is some duplication in the general powers to reduce rates; thus, the Council might do so when required by "the economic position of the country," and the three Ministers when required by "special economic conditions within the country."

¹⁵ Dziennik Ustaw, 1935, No. 30.

were excluded from the scope of the general decree powers conferred on the Executive during legislative recess by the constitutional amendment of 1926, and from a temporary extension in the scope of these powers conferred by the simultaneously enacted law. Although it appears that tariff agreements during this period were not put into force until ratified individually by the legislature, the Polish Government provided for the possibility of special temporary enabling laws by including in such agreements a provision that the contracting governments might agree upon putting them into provisional effect if so authorized by legislation in the respective countries.¹⁶

The 1935 Constitution (art. 52) required the approval of both legislative chambers¹⁷ instead of only the Sejm, but authorized the Executive in urgent cases to put into provisional effect all or some of the clauses of commercial or tariff agreements pending ratification by the legislature. This provision was undoubtedly due to the fact that Poland was negotiating a complete new series of tariff agreements after the introduction of the 1933 tariff.

The 1933 tariff had two columns of rates, the lower for countries with which Poland had commercial agreements in effect, but the Executive was authorized to extend the lower rates temporarily to other countries in order to allow a reasonable time for the conclusion of agreements.

Nontariff import controls.

A system of import permits was introduced in 1928 for a few commodities and was subsequently greatly extended, as was also the use of import quotas, especially in 1931 and 1932. Foreign-exchange control was established on April 27, and complete executive control of imports on May 12, 1936. After German occupation, a customs ordinance was issued for the Government General of Poland on November 17, and took effect when published in Gazette of the Government General, No. 11, of December 18, 1939.

PORTUGAL

Subject to legislative approval, the Executive in Portugal may put into effect changes in the basic import duties. Such approval is not required for alterations in the import-duty surtaxes, for duty exemptions in special cases, or for the grant of the lower-column rates to individual countries. Tariff agreements require legislative approval before being put into force.

The Executive, however, has constitutional authority in emergencies to issue decrees with the force of law, and to approve international agreements, subject to subsequent legislative approval only if the legislature is in session at the time.

Since 1933 the upper chamber of the legislature has been corporative and merely consultative,¹⁸ and there is a single party political sys-

¹⁶ For an example, see treaty of commerce and navigation of March 10, 1934, between Poland and Czechoslovakia, art. 31, par. 3 (Dziennik Ustaw, No. 22, March 26, 1937, p. 27).

¹⁷ The Constitution of 1935 (art. 47) provided that one-third of the members of the upper house (Senate) should be appointed by the President, the remainder to be elected indirectly under a special electoral law; under the 1921 Constitution, all Senators were elected directly (art. 36). However, the 1935 Constitution (art. 53) permitted the Sejm to overrule the Senate by a three-fifths majority.

¹⁸ It is actually called the Corporative Chamber; the lower chamber is the National Assembly.

tem, all the old parties having been disbanded. Portugal had foreign-exchange control from 1924 to 1937.

Autonomous tariff powers.

Under various tariff laws the Executive has been authorized to grant duty reductions or exemptions on certain commodities imported for specified purposes.

On February 27, 1932, there was introduced a surtax, usually equal to 20 percent of the existing duties, with an authorization for the executive to increase this surtax up to a limit of 100 percent of the existing duty on a given commodity, or to reduce the surtax to a limit of 5 percent of the existing duty on raw materials and equipment for Portuguese industries.¹⁹ Such actions are based on recommendations of an interdepartmental committee created for this purpose.

A new Constitution, effective since April 11, 1933, as subsequently modified authorizes the Executive in urgent cases to put into effect decrees upon any matter, specifically including international treaties and conventions. If the legislature is in session, such decrees must be presented to the lower chamber (the National Assembly) for approval at one of the first five meetings following their publication. The Assembly may reject or amend such decrees. In case of amendment, however, the original decree continues temporarily in force, and the amended version becomes an ordinary bill, which must be referred to the Corporative Chamber for its opinion and to the President for his approval.²⁰ The President's veto may be overridden by a two-thirds majority of the Assembly (art. 98). If the legislature is not in session, it has no power of direct rejection, but there is nothing in the Constitution to prevent the Assembly from passing a law at a subsequent session to reject or amend a decree.

Under this power, a decree law of January 10, 1935,²¹ authorizes the Minister of Finance by provisional decrees to reduce, suppress, or reinstate the import-duty surtaxes, and to increase them without limit after consulting a special technical committee. This decree law (art. 2) authorizes the Minister also to decree exemption from duty for any article in exceptional and "legally justifiable" cases. No requirement of legislative approval is stipulated for action taken by the Minister under this decree law.

Another such decree law, effective September 7, 1939, authorizes the Executive through the Ministry of Commerce and Industry to take measures to limit imports and to control commercial activities without subsequent legislative approval. Although the powers granted to the Executive by this decree are very broad, they may not apply to changes in import duties.

¹⁹ By decree No. 20035, February 26, 1932, art. 2 (Diário do Governo, same date; and Deutsches Handels-Archiv, 1932, p. 748). The usual surtax was raised to 28 percent of the duties on imports transported in vessels not entitled to national treatment in Portugal (decree law No. 24115, June 29, 1934; Diário do Governo, June 30; Handels-Archiv, 1934, p. 3403).

²⁰ Art. 109 of the Constitution, as amended by law No. 1885, March 23, 1935, but art. 108 of the Constitution as originally introduced. The constitutional amendments introduced by the original Constitution, such as the specific mention of treaties and the insertion of the phrase "if the legislature is in session."

²¹ Decree law No. 24920 art. 1 (Diário do Governo, also January 10; and Deutsches Handels-Archiv, 1935, p. 2857).

Tariff-agreement powers.

The Constitution of 1933 (art. 81) requires the submission of all treaties and conventions with other countries to the legislature for approval. Previously, and in particular from February 27, 1932, the Executive could put into effect provisional agreements granting the rates of duty in the lower schedule of the double-column tariff.²²

In August 1940, a decree law²³ authorized the Minister of Finance to apply, until the end of 1940, the duties of the lower-tariff column on imports from all sources of raw materials absolutely indispensable to Portuguese industries when these commodities were not obtainable from countries already entitled to the lower-column rates.

The emergency powers of the Executive apply also to tariff agreements.

Nontariff import controls.

Foreign-exchange transactions in excess of stipulated limits²⁴ were placed under control by a decree of September 6, 1924, but from 1929 this control was not utilized to restrict imports and was finally abolished on October 18, 1937. Measures authorizing the introduction of import quotas and import-permit requirements have not been implemented, except for the subjection of some commodities to import-permit requirements, most if not all of which were introduced after the outbreak of the war; but the corporative system, which has been developing in the past decade, operates as a general control on trade and therefore also on imports. In particular regulatory commissions have been established for the purpose of coordinating imports of certain commodities with domestic production.²⁵

RUMANIA

Before September 1940, when the Rumanian Executive assumed full legislative powers, the King might legislate by decree subject to approval of the legislature at its current session, or, if not convened, at the next session. This authority provided the Executive with practically complete power to alter tariff rates, particularly since the Government was corporative with a single-party system.²⁶ A special provision enabled the Executive to put tariff agreements into effect in the same manner. Rumania has foreign-exchange control, import-permit requirements, and special quotas.

Autonomous tariff powers.

A law of October 6, 1920,²⁷ authorized the Executive, without legislative approval, to reduce or remove import duties or to increase

²² Decree No. 20085, art. 1. Previously such agreements were limited to 1 year. See law No. 1385, August 25, 1922, art. 1, sec. 7 (Diario do Governo, August 28; and Deutsches Handels-Archiv, 1922, p. 722), and amendment of this article by decree No. 18851, August 30, 1930 (Diario do Governo, September 13; Handels-Archiv, 1930, p. 3152). Under these earlier provisions, the obtaining of reciprocal advantages was expressly stipulated as a condition, and the concession of intermediate rates between the two columns was contemplated, with the lower rates as a limit beyond which the Executive might not go.

²³ No. 30631 (Diario do Governo, August 5).

²⁴ The limit was originally £5, but was raised to £10 in June 1931, and to £100 in April 1932.

²⁵ By the end of 1938, four such commissions had been established, namely, for rice, cod-fish, cotton, and grains, and one for wheat in the Azores. The list of commodities requiring import permits was greatly extended by a decree published in Diario do Governo, October 21, 1940.

²⁶ Both legislative chambers were corporative, except that half the members of the Senate were appointed or served *ex officio* by virtue of their positions.

²⁷ Promulgated by royal decree No. 4001, also October 6.

them up to 50 percent ad valorem. This law was used for putting into effect tariff changes, including a complete tariff revision in 1927, until the passage of a definitive tariff act in 1929. So-called luxury surtaxes, however, equivalent to 50 percent of the value of the goods, were introduced by decree, beginning October 5, 1921, on specified commodities when freed from the post-war import-permit regime, on the basis of another law promulgated by a royal decree (No. 3593 bis.) of July 23 of that year. These surtaxes were repealed by the tariff revision of 1927. The Executive also fixed coefficients for the conversion into paper lei of the tariff rates expressed in gold lei, until the introduction of rates expressed in paper lei in the 1929 tariff; but this authority was not utilized to alter the relative level of the rates.

The 1929 act, which introduced a double-column tariff,²⁸ restored legislative control over import duties with some exceptions. Article 4 authorized the Executive, in exceptional cases and under certain safeguarding conditions, to increase the lower-column rates temporarily if an important and efficient Rumanian industry was jeopardized by the importation of foreign commodities the export prices of which were lower than the market prices in Rumania. Requests had to be referred for investigation and suggestions to a committee of experts set up for the purpose and composed of government officials and of businessmen appointed from the industry in question. Executive action was based on the committee's reports, which were to be published in the official gazette (*Monitor Oficial*). No legislative approval was required.

The tariff schedule itself contained a number of reduced rates which were to be applied as long as, in the opinion of an Industrial Committee set up in the Ministry of Industry and Commerce, the Rumanian production of the commodities in question was not sufficient to meet the demand.²⁹

The trend was soon reversed toward an increase in executive tariff powers. A law of April 4, 1931,³⁰ authorized the Executive without legislative approval, to reduce by not more than one-third the lower-column duties of the 1929 tariff on sugar, cement, and agricultural machinery and tools. Then a new customs law of April 8, 1933,³¹ empowered the Executive to exempt from import duty, in times of pressing need, all grains and other foods for human consumption or for livestock, but measures put into effect under this authority had to be submitted for approval to the legislature if in session, or, if not, during the next session.³² Finally a law of March 31, 1937,³³ authorized the Executive, when the legislature was not in session, to take all necessary steps, including tariff changes, in order to influence advantageously the country's balance of payments; but, if

²⁸ Law No. 2681, July 29, 1929, effective August 1 (*Monitor Oficial*, No. 160, July 30; and *Deutsches Handels-Archiv*, 1929, p. 2181). Previous so-called maximum duties were solely punitive and were obtained by increasing the basic rates by a specified percentage, which was the same for all commodities.

²⁹ For examples, see tariff numbers 1032 and 1080 in the iron and steel schedule, No. 1193, only one article (*Monitor Oficial*, No. 83, April 9; and *Legislativer Informationsdienst*, No. 6934/817).

³⁰ No. 1010 (*Monitor Oficial*, No. 87, April 13, p. 2468), art. 35.

³¹ The actual wording of this and similar provisions in Rumanian laws is "la cea mai apropiata sesiune," which is usually translated "to the next session" and thus would exclude that would include a current session.

³² Art. 14 (*Monitor Oficial*, No. 76, April 1, p. 3345).

such measures altered legal provisions in force or created new legal restrictions, they had to be submitted to the legislature for approval at the next session, and became void if rejected, although not retroactively.

The legislature was dissolved about the beginning of 1938, a new Constitution was promulgated on February 27 of that year³⁴ after approval by an oral vote of the citizens, and the new Cabinet appointed by the King abolished all existing political parties. The new legislature, not elected until June 1939, was corporative; half the members of the upper house were appointed by the King or served *ex officio* by virtue of their positions; and there was only one party.

By article 46 of the new Constitution the King, during dissolution of the legislature or between sessions, might issue decrees with the force of law. These decrees had to be submitted for approval to the legislature at the next session. By article 45, the King might at any time adjourn the legislature for a year. This Constitution was abolished and the new legislature dissolved in September 1940.

The tariff powers of the Executive not indicated above as revoked or superseded are presumably still in the statutes, although some may be suspended in practice by the Executive's assumption of full legislative powers.

Tariff-agreement powers.

The Rumanian Constitutions have authorized the Executive to conclude commercial conventions but required that the conventions be approved by the legislature before being put into "obligatory force."³⁵ Rumania concluded no new tariff agreements following the World War until after the introduction of the 1929 tariff.

The 1929 act, which, as stated, introduced a double-column tariff, stipulated (art. 3) that the higher rates might be reduced in the negotiation of commercial agreements to the lower rates as a limit, but that the lower rates might be neither reduced nor bound,³⁶ and (art. 2) that the lower rates should be applied to imports from all countries until March 1, 1930, after which date the higher rates should take effect except insofar as altered by treaty obligations. However, the Executive was authorized to extend this period by not more than 6 months if technical difficulties delayed the conclusion of commercial agreements with important countries. The period was extended for 2 months till May 1,³⁷ and apparently still further, since a law of June 28, 1930,³⁸ authorized the Executive to conclude provisional agreements after expiration of the time limit, if for technical reasons unable to do so before. Another law, of July 8, 1930,³⁹ empowered the Executive to put definitive agreements into provisional effect, when the legislature was not in session, subject to subsequent legislative approval.

These laws were in part superseded by the customs law of 1933,⁴⁰

³⁴ Royal decree No. 1045 (Monitor Oficial, No. 48, February 27; and English text in Correspondance économique roumaine, 1938, No. 2, p. 20).

³⁵ 1884 Constitution, art. 93; 1938 Constitution, art. 40.

³⁶ For some commodities there were only general rates, which might be reduced without limit and also bound.

³⁷ By a decree reported in Deutsches Handels-Archiv, 1930, p. 1274.

³⁸ No. 2387 (Monitor Oficial, No. 142, June 30; and Deutsches Handels-Archiv, 1930, p. 2454), art. 1.

³⁹ No. 2579 (Monitor Oficial, No. 153, July 12; and Deutsches Handels-Archiv, 1930, p. 2454).

⁴⁰ Art. 28 (sources given above). This law (art. 251) repealed any previous contrary provisions.

which specifically authorized the Executive to conclude tariff agreements and to put duty changes accorded in such agreements into provisional effect. These agreements had to be approved in the current session of the legislature, if meeting, or, if not, in the next session.

Nontariff import controls.

Foreign-exchange control was introduced in May 1932, and import-permit requirements in December 1932. Differential exchange rates were prevalent. Such import quotas as were established and allocated by countries were administered with a view to trade balances or available exchange and not according to any definite system of allocation.

A decree law, published September 17, 1939, revised and amplified governmental powers over import controls. A Foreign Trade Office was established in the Ministry of National Economy to act as a central agency for the control of foreign trade and of foreign-exchange operations. Another decree law, published February 17, 1940, established a new Ministry of Foreign Commerce⁴¹ to have general centralized supervision and control over foreign-trade policy. As a result a new foreign-trade regime was introduced on March 10, 1940, which abolished the free bourse for foreign exchange and prescribed a uniform official exchange rate. A decree law published October 5, 1940, completely revised the regime of import controls, with quotas based on imports in the preceding two years, with exchange allotments based on the essentiality of the commodities, arranged for this purpose in four quota lists of descending importance, and with authority for the customs officials to admit imports of commodities not subject to quotas.⁴²

SPAIN

The present Executive in Spain exercises full legislative functions, and the basis of the Government is corporative by organic laws of January 1938.⁴³

The development of executive powers under the Nationalist Government and the preceding regime was as follows:

Nationalist Government (since July 1936).

The Executive exercises full legislative functions. A decree of November 18, 1936, created a Committee of Foreign Exchange, directly under the Ministry of Finance, with exclusive jurisdiction over the administration of foreign exchange; by a decree of November 30, 1936, the Executive assumed complete control of foreign trade, requiring prior permits for all importations. These emergency provisions were incorporated in a definitive decree of April 23, 1938.⁴⁴ A centralized trade control agency (Cuerpo Técnico de Comercio) was created by a law of June 7, 1940.

⁴¹ Abolished by royal decree (Monitor Oficial, July 10, 1940), and its functions transferred to the Ministry of National Economy, because the decline of trade with free-exchange countries, after the commencement of hostilities in the Mediterranean Sea, made it necessary to have a separate Ministry of Foreign Commerce.

⁴² As summarized in *Bollettino di Notizie Economiche* of Rome, 1940, p. 702.

⁴³ There is a Palace (Fascist) Political Council of 19 members, but there is no legislature. By a single decree in September 1936, the revolutionary council of Burgos conferred on General Franco "the full powers of the State" without definition or limitation of these powers. He ratifies treaties by virtue of these powers.

⁴⁴ Official Bulletin, Burgos, April 23, 1938.

Republican Government (April 1931 to March 1939).⁴⁶

The Constitution of the Republic provided that the legislature might authorize the Executive to enact laws by decree. Numerous decrees changing individual rates of duty were issued and were usually reported to the legislature, which in turn, gave legal sanction to some of them. Moreover, decrees established the basic principles of the commercial policy and put into effect duty reductions granted in commercial agreements.

Of particular interest is a decree of May 9, 1933,⁴⁶ introducing a preferential system of duty refunds for the benefit of countries with which Spain had an excess of exports over imports and which purchased quarterly at least 35 percent of the exports of any important Spanish agricultural product. Refunds were made at the end of quarterly periods in amounts not to exceed 35 percent of the duties paid on a commodity selected by agreement between the Governments of Spain and the country concerned. An Interministerial Commission on Foreign Commerce made proposals based on statistical studies of Spanish exports during each quarter, which proposals had to be approved by the Council of Ministers. This system of refunds was discontinued before the outbreak of the civil war.

During the civil war, a decree of January 14, 1937,⁴⁷ established an interministerial commission to recommend to the Minister of Finance the reduction or suppression of import duties on commodities required by the national economy and produced insufficiently in territory controlled by the Republic. The decree authorized the Minister to put such recommendations into effect.

Nontariff import controls of the Republican Government.—This Government accepted and enforced the nontariff import controls of the preceding Royal Government. Foreign-exchange control had been in effect since 1930, being regulated according to the provisions of an order of May 31, 1931. Import quotas had been authorized by a decree of December 23, 1931, and bargaining quotas by a decree of December 26, 1933. The quota system broke down during the civil war and has not been reestablished by the Nationalist Government.

SWEDEN

In Sweden the Executive may by decree raise import duties within specified limits subject to subsequent legislative approval, and may reduce them without limit not subject to such approval. However, reductions in commercial agreements are in practice approved by the legislature (Riksdag—two chambers) before being put into effect. Nontariff import restrictions were unimportant until the outbreak of the European war.

Autonomous tariff powers.

The Constitution (art. 89) empowers the Executive to issue royal decrees on all matters pertaining to the general economy of the country. In such cases the legislature may merely make representa-

⁴⁶ The King left the country on April 14, 1931. A new Cortes was elected on June 28, 1931, and a new Constitution voted on December 9. The Nationalist revolt broke out on July 17, 1936, and Madrid finally surrendered on March 28, 1939.

⁴⁷ *Gaceta de Madrid*, May 11, 1933, p. 1046; and *Board of Trade Journal*, June 1, 1933, p. 875.

⁴⁸ *Gaceta de la República*, January 18, 1937.

tions and recommendations to the King, who, after consulting the Cabinet, may do whatever is deemed beneficial for the country. This executive authority is held to apply to the reduction or removal of import duties.

The Constitution (art. 60) expressly prohibits the Executive from increasing import duties except on cereals, but this prohibition is in part superseded by a law of June 17, 1932,⁴⁸ periodically extended, which empowers the King, when the legislature is not in session to levy special import duties up to three times the regular tariff rate on dutiable items and up to 25 percent ad valorem on items otherwise duty-free. Such measures cease to have force if not approved within 10 days after the next meeting of the Riksdag. Legislation of this nature prior to 1932 virtually limited the use of such duty increases to penalty purposes, that is, against countries treating Swedish goods or vessels unfavorably; the 1932 law contains no such limitation.

Tariff-agreement powers.

Commercial agreements require ratification by the Riksdag before taking effect if they contain matter within its competence or of special importance to the State. Although executive authority to reduce or remove import duties might be utilized also to put the duty reductions accorded in a commercial agreement into force, many such agreements contain other provisions which would require parliamentary ratification.

Nontariff import controls.

Prior to the present European war, import permits were required for only a few commodities. Shortly before the outbreak of the war, there was established a State Trade License Board to supervise foreign trade and to issue import permits. This Board was placed under a new Ministry of Public Supplies in October and was reorganized in November 1939 into a State Trade Commission. Several additional commodities were subjected to import-permit requirements, and on March 27, 1940, a list of 165 nonessential commodity classifications was so subjected in order to conserve foreign exchange. A decree of September 20, 1940, revised and somewhat expanded the list of commodities subject to import permits.

Since 1932, the Executive has been authorized to block payments to countries having foreign-exchange restrictions. Foreign-exchange control was formally introduced on February 26, 1940, replacing informal control effective since the previous autumn. This control became particularly restrictive from April 9.

SWITZERLAND

Since 1921, the Federal Council, the executive branch of the Government of Switzerland, has exercised certain broad powers over tariff rates, delegated to it by the legislature. Under this authorization, tariff rates may be changed practically at will; rates of duty may be increased or decreased, duties temporarily suspended or entirely removed, and the same or similar results may be accomplished

⁴⁸ Royal decree No. 245, June 17, 1932, promulgating Riksdag resolution No. 359 (Kommersiella Meddelanden, 1932, p. 846; and Deutsches Handels-Archiv, 1932, p. 1640). The last extension of this measure was until June 30, 1941, by royal decree No. 122, March 8, 1940, promulgating a Riksdag resolution (Kommersiella Meddelanden, 1940, p. 161).

by the adoption of supplementary duties or import taxes, which in turn may be increased or reduced, suspended or revoked, and later reestablished in one form or another. Ratification by the legislature is not required but all changes must be reported to that body. Switzerland has import quotas, and also tariff quotas which operate in a restrictive manner. Generally speaking, these quotas have not been administered according to any definite system.

Autonomous tariff powers.

These powers rest on an authorization provisionally granted by the legislature, the Federal Assembly (two chambers⁴⁹), under a law of February 18, 1921,⁵⁰ which was extended by a law of April 26, 1923,⁵¹ until such time as a revised tariff law should be enacted by the legislature, something which has not yet been done. The purpose of the 1921 authorization was declared to be the adaptation of customs duties to the current economic situation, and the Executive was put under the obligation only of observing certain constitutional mandates on tariff policy (mentioned below) and of reporting any changes in rates of duty to the legislature. The tariff now in force is the result principally of executive action, based on the revised schedules prepared and put into effect, as of July 1, 1921, by the Executive and modified by a large number of subsequent amendments established by executive decree.

The Executive has also been empowered, by the basic tariff law of October 10, 1902, to reduce import duties temporarily in order to impede increases in the cost of living. Some decrees putting increases of import duties into effect have been issued by virtue of an authorization of October 13, 1933, to take extraordinary and temporary measures intended to reestablish the equilibrium of the Federal Government's finances.⁵² Decrees altering tariff rates often cite article 29 of the Constitution, which stipulates that import duties shall be as low as possible on raw materials necessary for Swiss industry or agriculture and on articles classifiable as necessities, and that luxury articles shall pay the highest rates. This article of the Constitution further provides that these principles shall be observed as far as possible in the conclusion of commercial agreements.

Tariff-agreement powers.

Tariff and trade agreements may be put into effect, at least provisionally, by action of the Executive, without the approval of the legislature. This right derives from the Executive's general powers over tariff matters and is clearly recognized under Swiss public law, particularly with respect to provisional commercial agreements and arrangements supplementary to treaties. However, under the Constitution, all treaties must be submitted to the legislature and receive its approval before being ratified and put into effect definitively.

⁴⁹ Council of States and National Council, upper and lower chambers, respectively.

⁵⁰ *Amtliche Sammlung* or *Recueil Officiel*, new series, vol. 37, p. 129.

⁵¹ *Ibid.*, vol. 30, pp. 113 and 118, respectively.

⁵² *Amtliche Sammlung*, new series, vol. 40, p. 839. These decrees impose duties mainly on tobacco and alcoholic beverages. There are somewhat similar special authorizations concerning duties on mineral oils and some other commodities.

Nontariff import controls.⁵³

Since December 23, 1931, the Executive has been authorized to regulate imports also by means of nontariff controls. The Executive has from time to time specified lists of commodities the importation of which was made subject to permit within unannounced country quotas. Imports in excess of the quotas have been either entirely prohibited, or permitted for some commodities on payment of special duties considerably higher than the regular duties levied on the quota imports. A consultative committee to control imports was formed on October 13, 1939, and a central office for the supervision of foreign trade was established on April 27, 1940.

Although Switzerland has adopted no general foreign-exchange control, it has concluded, since 1931, a considerable number of clearing and payment agreements for the purpose of regulating its trade and balance of payments with countries maintaining control of foreign exchange transactions or imposing restrictions on the transfer of international means of payment. Informal exchange control exercised through the Swiss banks was provisionally effective beginning with May 1940.

THAILAND (Siam)

The Executive⁵⁴ of Thailand has no power to change import duties either autonomously or in commercial agreements, but at present half of the members of the legislature are appointed by the King. Import quotas for all commodities were introduced for the period June 21, 1940, to March 20, 1941.

Constitution of the legislature.⁵⁵

Until June 24, 1932, Siam was an absolute monarchy. A provisional Constitution, promulgated on June 27, 1932, was replaced by a permanent Constitution signed by the late King on December 10, 1932. This Constitution provides for a unicameral legislature called Assembly of the People's Representatives. During a transitional period not to exceed 10 years from June 24, 1932 (and recently extended), half the members of the legislature are to be appointed by the King, the other half to be elected. When this transitional period expires, all members are to be elected. In the latter part of 1933, the Executive banned political associations, and no political parties have since been recognized. The legislature has been dissolved by various Executives over considerable periods of time. New general elections took place in November 1938.

TURKEY

In Turkey the Executive has complete authority in practice to alter import duties, either autonomously or in commercial agreements, subject to perfunctory approval by the legislature, a single chamber (the Grand National Assembly, called *Kamutay*). Turkey has foreign-exchange control, bargaining quotas for some commodities, and import-permit requirements for others.

⁵³ For transit restrictions on Swiss exports see the end of this subheading in the sections on France, Germany, and Italy.

⁵⁴ Under the permanent Constitution of 1932 the King exercises the executive power through a State council consisting of a president and of 14 to 24 members, 15 of whom, including the president, are selected from the legislature.

⁵⁵ *Political Handbook of the World, 1940*; and *Commercial Directory for Thailand*, published by the Ministry of Economic Affairs, Bangkok, 1941, p. 11.

Autonomous tariff powers.

The peace treaty of Lausanne of July 24, 1923, between the Allied Powers and Turkey, released Turkey from the venerable system of capitulations, by which that country at the height of its power had bound itself not to raise its import duties; but a commercial convention, simultaneously negotiated and signed,⁵⁶ prohibited Turkey from increasing its import duties on products of the signatory States during the effective period of the convention (August 6, 1924, to August 29, 1929). The duties might be and were raised against certain other States.

The first completely autonomous tariff law, effective October 1, 1929,⁵⁷ conferred no discretionary tariff powers on the Executive beyond the authority to enforce some penalty measures, and even provided that duty changes, although enacted by the legislature, might not be enforced until 3 months after public announcement, except in extraordinary cases for commodities urgently needed (art. 15).

A law of June 10, 1933,⁵⁸ revoked the provisions mentioned above and empowered the Executive until February 22, 1936, to change import duties without limit, when such action was urgently required in the interest of the national economy, with the proviso that any change must within 1 month after being put into effect be submitted to the legislature for approval (art. 3). In practice this authority has been used to change duties in ordinary circumstances and is still so used, although there is no available record of an extension in the law's period of validity beyond 1936. In fact, recent decrees effecting duty changes cite this law directly as authority with no mention of any extending measure. Furthermore, the requirement of subsequent legislative approval is unimportant because of the cabinet form of government⁵⁹ and the existence of a single-party system, which system was legally recognized by a constitutional amendment of February 5, 1938.

Tariff-agreement powers.

The Constitution, fundamental law of January 20, 1921, vested all power, executive as well as legislative, in the Grand National Assembly, and even authorized this body (art. 26) to negotiate with foreign States. However, the assembly by article 2 of the law of June 10, 1933, mentioned above, empowered the Executive in case of need to terminate or alter commercial agreements, including the attached schedules of tariff concessions, to add new schedules, and to negotiate tariff agreements and put them into provisional effect. The remarks concerning autonomous tariff powers granted by this same law apply also to tariff agreements, namely, the requirement of subsequent legislative approval, the perfunctory character of this

⁵⁶ Art. 1 (League of Nations Treaty Series, vol. 28, p. 172). The signatory States were the British Empire, France, Italy, Japan, Greece, Rumania, and Yugoslavia.

⁵⁷ Law No. 1499, June 8, 1929 (Resmi Gazete, the official gazette, No. 1230, July 1, 1929; and Deutsches Handels-Archiv, 1929, p. 2505).

⁵⁸ Law No. 2294, art. 1, effective June 20 (Resmi Gazete, No. 2432, June 20; and Deutsches Handels-Archiv, 1933, p. 2996).

⁵⁹ According to a constitutional revision by a law of April 20, 1924, art. 7, the legislature exercises the executive power through the President elected by itself and through the Council of Ministers chosen by him, with the proviso that the legislature may at any time control the actions of the Government and may at any time dismiss the Government. Another revision of December 6, 1934, provided that the President should be chosen from among the members of the legislature and should hold office only during the life of the legislature electing him (Statesman's Yearbook, 1938).

approval, and the utilization of this authority for cases of no apparent urgency and even after its apparent expiration.

Moreover, a series of laws has empowered the Executive to put provisional commercial agreements into temporary effect. Before each law lapsed, a new law provided an extension, sometimes with substantive modifications. Three such laws⁶⁰ enacted prior to the autonomous tariff of 1929 were apparently designed to allow the Executive to accord to States not signatory to the Lausanne Commercial Convention or similar agreements the duties as fixed in that convention or at least duties lower than the higher duties introduced against nonsignatory States by some of these laws. Finally a law of June 5, 1930, since periodically extended,⁶¹ authorized the Executive to conclude and put into effect provisional agreements with countries with which negotiations for definitive agreements are being or are to be conducted. The relation between this power and the power conferred by the law of June 10, 1933, is not entirely clear. However, in none of this series of laws is there any specific mention of tariff concessions or until lately of legislative approval.

Nontariff import controls.

Turkey has had foreign-exchange control since March 1930, and has also differential exchange rates. Global import quotas were introduced for many commodities in November 1931. Clearing and similar agreements concluded in 1933 and thereafter have provided for special country quotas. A decree of February 19, 1934, classified imports in various categories and prescribed global quotas for one list, special country quotas for another, and import-permit requirements for others, but global quotas were abolished by a decree of November 20, 1936. The other categories have been somewhat altered by this and subsequent decrees. The general import regime, however, is modified by special agreements with individual countries.

A national-defense law, effective January 26, 1940,⁶² authorized the Executive, in case of war or mobilization, to exercise far-reaching control of the national economy, including foreign trade. Under this authority the Ministers of Commerce and of National Economy were empowered by a decree published March 13 following to establish compulsory importers' associations in order to prevent wartime speculation. A decree of April 3 established eight such associations for specified commodity categories.

⁶⁰ Law No. 691, art. 1, December 12, 1925 (Deutsches Handels-Archiv, 1926, p. 720), increased rates of the tariff law of July 28, 1920, by 60 percent against nontreaty States, and authorized the Executive to conclude provisional agreements of 6 months' duration, which could be twice renewed.

Law No. 1005, art. 1, April 10, 1927 (Resmi Gazete, No. 587, April 20, 1927; Handels-Archiv, 1928, p. 700), superseding the above provision, authorized the Executive to conclude provisional agreements for not more than 2 years when a definitive agreement was in view.

Law No. 1410, art. 1, April 10, 1929 (Resmi Gazete, No. 1102, April 8, 1929; Handels-Archiv, 1929, p. 1374), authorized the Executive to conclude provisional agreements with any country up to June 30, 1930.

⁶¹ Law No. 1070, art. 1 (Resmi Gazete, No. 516, June 10, 1930; and Deutsches Handels-Archiv, 1930, p. 2256). A recent extension was by law No. 3435, June 19, 1938 (Resmi Gazete, No. 3493, June 25; and Handels-Archiv, 1939, p. 1181). Intermediate extensions were by laws 1097, 2258, and 2759. (See Handels-Archiv, 1932, p. 2118; 1933, p. 3302; and 1936, p. 3220.) A very recent law, No. 3070, requires the submittal of temporary commercial agreements to the legislature within 3 months for the purpose of ratification.

⁶² Law No. 3780, January 18, 1940; modified by law No. 8054, Dec. 25, 1940 (Resmi Gazete, Dec. 28).

THE UNION OF SOUTH AFRICA

In the Union of South Africa, the Executive has various limited powers to alter import duties,⁶³ including authority to put into immediate effect changes in duty proposed to the legislature, to decide upon the application of deferred increases in rates, and to reduce duties in order to aid South African industries or to combat excessive prices. In return for concessions, the Executive may extend to a given country, in whole or in part, the two lower columns of a triple-column tariff, subject to subsequent legislative approval. The Union has foreign-exchange control.

Autonomous tariff powers.

Upon introducing into the legislature proposals for changes in import duties, the Executive puts these changes into effect provisionally. Refunds and adjustments are made if a proposal is disapproved.

For a number of commodities the import tariff contains deferred rates, called suspended rates, which are higher than the regular rates. A suspended rate remains inoperative until the domestic industry concerned has been established or sufficiently expanded to justify in the opinion of the Government the application of a duty increase. Then the Executive may impose part or all of the suspended rate and may subsequently withdraw this increase.

The tariff act authorizes the Executive, on the recommendation of a Board of Trade and Industries,⁶⁴ also to remove or reduce the duties on materials requisite for any industry. Furthermore, the Executive is authorized to apply import duties in a lower column than those in force (the tariff has 3 columns of rates) when the Board reports that any protected industry is charging excessive prices, restraining trade, or maintaining unsatisfactory labor conditions.⁶⁵

Tariff-agreement powers.

Actual import-duty changes in commercial agreements require legislative approval prior to taking effect, but the Executive may extend provisionally to other countries the rates of the British preferential or the intermediate column (the former only to British countries) in return for equivalent concessions, subject to legislative approval within a time limit specified in the act.⁶⁶

Nontariff import controls.

Emergency finance regulations promulgated on September 9, 1939, provided for control of sales of foreign exchange in excess of £50, which limit was reduced to £5 at the end of February 1940. On February 1, 1940, imports from specified European countries were subjected to import-permit requirements.

⁶³ See Customs Tariff and Excise Amendment Act, 1937, ch. 1, sec. 7 (2).

⁶⁴ The Board was established in October 1924 (under Act No. 33 of 1924), superseding an earlier board of the same name set up in July 1921. Its functions, which extend to tariff matters, are purely advisory and subject to the direction of the Minister of Commerce and Industries (Board of Trade and Industries Act, 1924).

⁶⁵ Customs Tariff and Excise Duties Amendment Act, 1925, ch. IV, sec. 40.

⁶⁶ *Ibid.*, ch. 1, secs. 1, 6, and 8.

THE UNION OF SOVIET SOCIALIST REPUBLICS (Soviet Union)

The Executive has complete authority over tariff rates in the Soviet Union, and, with the approval of a permanent committee of the legislature, may also enforce tariff agreements. The Government has a complete monopoly of foreign trade; consequently import duties are of slight importance.

Autonomous tariff powers.

A law of March 13, 1922, provides for customs duties to be fixed by the Council of People's Commissars, which is the supreme executive and administrative organ of the Soviet Union.

The Council of People's Commissars, by a decree of April 16, 1932,⁶⁷ introduced maximum and minimum rates on a specified list of commodities to be applied according to subsequent regulations decreed by the People's Commissariat for Foreign Trade in conjunction with the People's Commissariat for Finance. These regulations were issued in May 1932.⁶⁸ Articles included in the governmental import plan were to pay the minimum rates; those not so included, the maximum. However, imports from treaty States were to pay the rates stipulated in the respective treaties if different from those provided by the 1932 decree; and certain imports consigned to foreigners working in the Soviet Union were to pay the rates fixed under special provisions.

Tariff-agreement powers.

All commercial conventions with foreign countries are subject to ratification by the permanent central committee (Presidium) of the legislature (Supreme Council).⁶⁹ Owing to the one-party system in the Soviet Union, such ratification is purely perfunctory. In practice, however, even formal treaties of commerce are put into effect provisionally before ratification by the Presidium.⁷⁰ In recent years Soviet commercial agreements have not included reductions of Soviet duties, which are of practically no influence in regulating Soviet imports.

Nontariff import controls.

On April 22, 1918, a State monopoly was established over foreign trade under the control of the People's Commissariat for Foreign Trade. All commercial transactions are effected through official trading organizations, which, as regards imports, are in general controlled in their actions by predetermined import plans of the various industries as approved by a State Planning Commission.

⁶⁷ Decree No. 56 (Collection of Laws, 1932, pt. I, No. 35, serial No. 214).

⁶⁸ Decrees of the People's Commissariat for Foreign Trade, 1932, No. 25, p. 31.

⁶⁹ Constitution of December 5, 1936, art. 49M.

⁷⁰ Examples: Treaty of commerce and navigation of March 25, 1940, with France (Vnyeshnaya Torgovlya, 1940, No. 5, p. 18), art. 10, prescribes provisional effect from date of signature; and similar treaty of January 5, 1940, with Bulgaria (Vnyeshnaya Torgovlya, 1940, No. 3, p. 9), art. 28, prescribes provisional effect not later than 1 month after signature if not already ratified. This treaty with Bulgaria was ratified by the Presidium on February 3, but ratifications were not exchanged until February 13.

THE UNITED KINGDOM ⁷¹

In the United Kingdom the Executive normally has the power to alter import duties, except certain duties intended chiefly for revenue, either autonomously or in commercial agreements, subject to subsequent approval by the legislature. The Executive received emergency powers for the duration of the war, by an Emergency Powers (Defense) Act of August 24, 1939, under which foreign-exchange control and import-permit requirements were introduced in early September.

Autonomous tariff powers.

Import duties are imposed under a number of acts of Parliament and are subject to varying provisions as to alterations; most of them may be altered by Treasury order. Revenue duties, relatively few in number, are imposed, and may only be altered, by act of Parliament; they are provided for in annual Finance Acts. Key-industry duties (chargeable under the Safeguarding of Industries Act, 1921, as amended and extended) may be reduced only by act of Parliament, but rates additional to the key-industry duty may be imposed by Treasury order, and the Board of Trade has the power to include or exclude products from the list of articles chargeable with a key-industry duty. Ottawa duties (chargeable under the Ottawa Agreements Act, 1932) may be repealed or reduced, and rates additional to the Ottawa duties imposed, by Treasury order. Changes in the duties chargeable under the Import Duties Act of 1932, and the Beef and Veal Customs Duties Act of 1937, may be made by Treasury order with certain limitations.

Under the Import Duties Act and subsequent legislation, the Import Duties Advisory Committee ⁷² is empowered to recommend changes in certain duties, after consultation with the Board of Trade or with the appropriate Government department. Treasury orders instituting such changes are subject to parliamentary approval within a specified period. Under the Import Duties (Emergency Provisions) Act, 1939, effective September 6, certain powers of the Treasury and Board of Trade in relation to customs duties are enlarged, and Treasury orders previously made on the recommendation of the Import Duties Advisory Committee may be made without such recommendation.

Tariff-agreement powers.

Reductions or removals, by agreement with other countries, of duties imposed under the Import Duties Act of 1932, the Ottawa Agreements Act of 1932, and the Beef and Veal Customs Duties Act of 1937, are made effective by Treasury order, subject to parliamentary approval within a specified period. Changes by commercial agreement in other duties, such as revenue duties, are provided for in annual Finance Acts.

Nontariff import controls.

For several years prior to the European war, the United Kingdom had import quotas on certain agricultural commodities. Since Sep-

⁷¹ Sources: The official publications of the indicated acts.

⁷² Constituted by Import Duties Act, 1932 (General Acts and Measures, 22 and 23 Geo. V, ch. 8, p. 21).

tember 5, 1939, import permits have been required for a wide range of commodities, and since June 8, 1940, for all commodities except live quadrupeds. Foreign-exchange control has also been in effect since September 3, 1939. By means of these various import restrictions the United Kingdom has diverted its import trade into channels and types of commodities dictated by the exigencies of war.

THE UNITED STATES

In the United States the Executive has authority to make tariff changes under prescribed conditions and within prescribed limits, either autonomously or in commercial agreements, without subsequent legislative approval. Apart from antidumping and countervailing duties, and duties to offset foreign discriminations, autonomous executive alterations are authorized only to equalize foreign and domestic costs of production, or to protect domestic measures benefiting agriculture. Nontariff import controls are limited to a few exceptional quotas.

Autonomous tariff powers.

The flexible tariff provision of the Tariff Act of 1922 authorized the President, without legislative approval, to increase or decrease import duties by not more than 50 percent in order to equalize differences in the cost of production in the United States and foreign countries, after investigation by the United States Tariff Commission in the course of which public hearings were held. The authorization was reenacted with slight changes in the Tariff Act of 1930 and is still in effect.⁷³ If the total permissible increase in an ad valorem duty, or a duty in part ad valorem, should be insufficient for the purpose, the President may equalize the cost differences by changing the valuation basis for the ad valorem duty from the foreign-market value of the commodity in question to the selling price of similar domestic articles within the United States, in which case he may not increase the rate but may decrease it by as much as 50 percent. No authority is granted to impose a duty on articles on the free list. Under the Trade Agreements Act duties on articles included in trade agreements may not be changed under the flexible tariff provision.

An amendment enacted on January 25, 1940, to the Agricultural Adjustment Act, authorized the President, without legislative approval, to impose fees (as an alternative to quantitative restriction of imports) on imports of either free or dutiable commodities which interfere with Government programs under the Agricultural Adjustment Act of 1933, as subsequently amended, or under the Soil Conservation and Domestic Allotment Act of 1936, or under Section 32 of the Act of August 24, 1935, and to suspend or modify such fees as conditions require. Any action taken by the President under this authority must be based on an investigation by the Tariff Commission during which interested parties are given an opportunity to present their views. The fees may not exceed 50 percent ad valorem and have the same legal status as import duties.

⁷³ The principal difference between the flexible provisions of the two acts is that under the Tariff Act of 1922 (sec. 315) the President was not bound by the Tariff Commission's findings, whereas under the Tariff Act of 1930 (sec. 330) he is confined either to putting into effect the rate of duty specified by the Tariff Commission or to taking no action.

Trade-agreement powers.

The Trade Agreements Act of June 12, 1934, amends the Tariff Act of 1930 and authorizes the President, under specified conditions, to bind existing duties against increase, to bind existing free entry, or to decrease or increase duties by not more than 50 percent, pursuant to an agreement with a foreign country for the purpose of promoting foreign trade. No legislative approval is required to put such agreements into effect.

Under the Trade Agreements Act, the President may also impose quantitative limitations on imports, including limitations on imports at specified rates of duty. Agreements must be subject to termination in not more than 3 years and, if allowed to continue in effect thereafter, on not more than 6 months' notice. The President is directed, before the conclusion of such agreements, to seek information and advice from the Tariff Commission, the Departments of State, Agriculture, and Commerce, and from other appropriate sources, and to allow interested parties to present their views. The power to enter into trade agreements was limited to 3 years, but has been twice extended for 3-year periods, the latest to expire in June 1943.

Nontariff import controls.

Such controls are exceptional in the United States, which follows a general policy of regulating imports by means of customs duties. The United States, however, has four import quotas established for a variety of reasons, each under a different act, namely, for sugar under the Sugar Act of 1937, but effective from June 1934 under other acts;⁷⁴ for hard-fiber cordage (mostly of manila hemp) from the Philippines, under the Cordage Act of 1935, and under the Philippine Independence Act; for most types of cotton, effective since September 20, 1939, under section 22 of the Agricultural Adjustment Act as amended in 1935; and for silver fox furs, effective since January 1, 1940, by virtue of supplementary agreements with Canada concluded under the Trade Agreements Act.⁷⁵

⁷⁴ This quota was suspended from September to December 1939.

⁷⁵ There was also an import quota on tobacco and tobacco products from Cuba, effective from September 1934 to March 1936, established in the 1934 trade agreement with that country. Quota imports from Cuba were accorded an exclusively preferential tariff reduction, but imports from Cuba in excess of the quota were prohibited. An import quota for red-cedar shingles was in effect during most of the life of the first trade agreement with Canada, pursuant to a reservation in the agreement and an act of Congress. A reservation in the second trade agreement with Canada was given effect by an act of Congress resulting in the imposition of a duty-free tariff quota on red-cedar shingles during the calendar year 1940 and thereafter during the life of the agreement, and of an import duty on imports in excess of the quota.

There are also some other tariff quotas included either in trade agreements or on some Philippine products pending final independence of the Philippine Islands. The tariff quotas in effect (January 1941) by virtue of trade agreements include, besides the shingles mentioned above: Cattle, milk, cream, potatoes, and certain fish in the trade agreement with Canada; and petroleum in the agreement with Venezuela.

A tariff quota is a stipulated amount of a given commodity to be admitted under more favorable tariff treatment than imports in excess of the quota. In general, excess imports are assessed the regular tariff rates, whereas imports within the tariff quotas are assessed lower rates or accorded free entry. Tariff quotas so based, therefore, are not ordinarily a restriction on imports, like import quotas, but rather a liberalization of the import-tariff regime, especially if the quotas are fixed at figures exceeding previous imports. Tariff quotas occur in other countries, particularly in Central Europe, but are only mentioned in this report under Switzerland. In that country they are real restrictions, since imports under the tariff quotas are assessed the regular duties while excess imports are subjected to higher duties specially introduced for the purpose.

URUGUAY

The Uruguayan Executive⁷⁶ has several rather limited powers to alter import duties autonomously. Uruguay has foreign-exchange control, exchange permits, exchange quotas, and also global import quotas for fuel oil and gasoline.

Autonomous tariff powers.

The Executive is empowered by the budget law of August 6, 1931, to increase basic rates to 48 from 31 percent ad valorem on commodities shown to be similar to those manufactured in Uruguay, and to increase lower rates to 31 percent ad valorem on products classified in the raw materials schedule when it is shown that adequate supplies of such products are available in Uruguay.⁷⁷ By virtue of a law of October 12, 1912,⁷⁸ the Executive may establish lists of raw materials to be admitted duty-free or at reduced rates as long as protection has not been requested by Uruguayan establishments organized for producing these materials under satisfactory conditions, and to reimpose higher duties when they are adequately produced. Power is conferred on the Executive under a law of October 10, 1931,⁷⁹ to increase duties in terms of local currency by determining the products on which a proportion of one-fourth of the duties shall be payable in "gold" and of increasing this proportion to one-half. Action taken under all these provisions must be reported to the General Assembly,⁸⁰ or in case of its recess to a Permanent Committee of the Assembly.

By a law of December 2, 1927,⁸¹ the Executive is required to designate the seasons when special additional import duties on fresh fruits are applicable in the interest of Uruguayan fruit growers.

Tariff-agreement powers.

The Constitution requires legislative ratification of commercial agreements before they can take effect.⁸²

Nontariff import controls.

Exchange control has existed in Uruguay since May 1931. Exchange permits are required to assure prompt issuance of exchange, and exchange quotas are fixed monthly in relation to Uruguay's exports to individual countries.

VENEZUELA

In Venezuela the Executive has authority to alter import duties, either autonomously or in *modi vivendi*, subject merely to report to the legislature.

Until the autumn of 1940, Venezuela had partial foreign-exchange control in general not restrictive of imports, import quotas on some cotton goods, and import-permit requirements only for cement. A

⁷⁶ The Uruguayan National Council of Administration (Consejo Nacional de Administración) was a part of the dual executive under the Constitution of 1917, but was abolished by the revolutionary government which came into power on March 31, 1933, and was not continued under the Constitution of 1934.

⁷⁷ Budget law of August 6, 1931, art. 40.

⁷⁸ Law No. 4268, arts. 1, 2, and 6.

⁷⁹ Arts. 1, 2, and 5.

⁸⁰ The General Assembly is made up of both houses of the legislature.

⁸¹ No. 3141.

⁸² Constitution of 1934, art. 75, sec. 7.

decree of October 25, 1940, made exchange control formally restrictive and introduced permit requirements for all imports.

Autonomous tariff powers.

The present tariff law, in force since October 23, 1936, grants to the Executive numerous powers which have been in effect under prior legislation for considerable but varying periods of time. One provision authorizes the Executive, for justifiable reasons, to increase and decrease without limit and to remove and reestablish import duties, with the sole proviso that such measures shall be reported to the Congress at the nearest regular session.⁸³ Another provision (art. 17, secs. 1 and 2), apparently but not explicitly punitive in character, authorizes the Executive to subject some or all commodities originating in or shipped from individual countries to duty increases not exceeding the amount of the existing duties or to ad valorem duties not exceeding the value of the goods. The Executive is also authorized to modify without limit, to remove, or to reestablish transit duties (art. 6).

Tariff-agreement powers.

The tariff law specifically authorizes the Executive to reduce or refund up to one-fourth of the import duties on all or some commodities originating in or shipped from individual countries.⁸⁴ A broader provision empowers the Executive to put commercial *modi vivendi* into effect for 1 year, to prolong them year by year, and to extend their concessions to third countries, with the sole proviso that action taken under this authority shall be reported to the Congress at the nearest session.⁸⁵ Important commercial agreements with substantial schedules of duty reductions have been put into force under this provision as *modi vivendi*. The tariff law (art. 3) empowers the Executive pending legislative approval also to place in effect agreements for reducing a surtax of three-tenths of the import duties, which tax is levied on all imports shipped from the colonial West Indies or the Guianas, provided the reduction applies only to products of those regions.

Nontariff import controls.

Partial exchange control has been in effect for several years but in general did not operate to restrict imports until the autumn of 1940, when, by a decree of October 25, specified percentages of available exchange were allotted to various types of transactions. Import quotas for some cotton textiles were introduced on November 15, 1938, and have been altered somewhat every 6 months. They are allotted proportionally to importers, but not by countries. Total imports from Portugal for 1940 were limited to the value of total exports to that country in 1938, which happened to be nil. Import-permit requirements for cement were introduced on January 16, 1940. The decree of October 25, 1940, concerning allotment of exchange, also required prior permits, issued by a specially created Import Control Commission, for all imports for which payment with exchange in Venezuela is necessary.

⁸³ Art. 18. The tariff law was republished in the *Gaceta Oficial*, August 30, 1939, supplement. This provision was first introduced in the tariff law of March 28, 1889, art. 10. The nearest session (*próxima sesión*) is understood to mean the current session, if the legislature is convened, or, if not, the next session.

⁸⁴ Art. 17, secs. 6 and 7. This provision was first introduced in the tariff law of July 4, 1924, art. 16.

⁸⁵ Art. 17, sec. 8. These provisions were first introduced in the tariff law of July 15, 1935.

YUGOSLAVIA

The Yugoslav Executive has power to put into effect changes in import duties without limit, either autonomously or in tariff agreements, subject to subsequent approval by the legislature.⁸⁶

Yugoslavia has foreign-exchange control, with differential exchange rates, and exchange-permit requirements for many commodities.

Autonomous tariff powers.

A tariff project of 1925, put into effect by a Cabinet decree⁸⁷ and still in force, authorizes the Cabinet (art. 15) on recommendation of the Minister of Finance, to reduce or abolish import duties on any commodities should the best interests of the country thereby be served. Decrees issued under this authorization must be submitted to the legislature for approval immediately, if in session, otherwise within 15 days from the beginning of the next regular session.

Annual and interim (budget twelfths) finance laws contain interpretations of the authority conferred in this article. For example, retroactive adjustments of duties are not allowed when the legislature does not approve the executive tariff changes.⁸⁸ Furthermore finance laws⁸⁹ specifically direct the Minister of Finance to submit to the legislature for approval executive tariff changes under this authority at the time they are put into effect, and prescribe that the changes become void as soon as rejected and subsequently may not be put into force again by executive action or even be proposed by the Executive.

The King exercised all legislative functions from January 6, 1929, the date of a new fundamental law,⁹⁰ to the convocation of a new legislature under a Constitution promulgated September 3, 1931. During this period, some decrees with the force of law were issued under a general enabling measure of January 27, 1929, which decrees authorized the Prime Minister, or individual ministers acting in agreement with him, to put measures on specified subjects into force by ministerial decrees. By such a decree law of November 18, 1931,⁹¹ which revised article 15 of the tariff project, the powers therein conferred were broadened to include the introduction or increase of duties and were assigned to the Minister of Finance acting in agreement with the Prime Minister. Shortly thereafter, a decree law of December 3, 1931,⁹² provided that decree laws introduced under the

⁸⁶ A single chamber, the Skupshchina, until the introduction of the 1931 Constitution (Sluzbene Novine, No. 200, September 3); thereafter two chambers, the Senate and the Skupshchina. Elections indirect, except for Skupshchina since 1931. The King may appoint as many Senators as are elected. The Skupshchina was dissolved on August 26, 1930. A new electoral law is in preparation for the Skupshchina. Note that all references to the Sluzbene Novine are to the second part, which is really a collection of laws and decrees.

⁸⁷ No. 20291, June 19, issued by virtue of art. 71 of Law of Budget Twelfths for April to July, inclusive, 1925 (Sluzbene Novine, No. 136, June 20, 1925; and Deutsches Handels-Archiv, 1925, p. 1883).

⁸⁸ Finance Law for fiscal year 1931-32, art. 10, interpreting art. 71 of the Budget Twelfths Law for April-July 1925. For art. 10, see Project of Law concerning the General Customs Tariff, edition as of October 1, 1937 (in Serbian), vol. 2, p. 220.

⁸⁹ Finance Laws: 1934-35, art. 12, par. 12; 1936-37, art. 14, par. 11; and 1937-38, art. 12, par. 9 (Project of Law concerning the General Customs Tariff, October 1, 1937, vol. 1, note to art. 15 of the tariff project itself).

⁹⁰ Law regarding the Royal Power and the Supreme Administration of the State, January 6, 1929, art. 2, which reads: "The King is the possessor of all power in the country. He decrees and promulgates all laws . . ."

⁹¹ Serial No. 622 (Sluzbene Novine, No. 270, November 28, p. 1761; and Deutsches Handels-Archiv, 1932, p. 157).

⁹² Serial No. 655 (Sluzbene Novine, No. 285, December 5, p. 1867), art. 2, sec. 2, par. 2.

enabling measure of January 27, 1929, should be altered so as to substitute the Council of Ministers for the Prime Minister. Consequently, after this provision was complied with, decrees under article 15 of the tariff project were issued by the Council of Ministers.⁹³

In recent years, decrees putting into effect tariff changes under article 15 of the tariff project have also cited an authorization included in the Finance Law of 1938-39 and since continued.⁹⁴ This provision empowers the Council of Ministers to put into effect by decree, measures for the betterment of agriculture or general economic conditions provided the decrees are immediately submitted to the legislature for approval.

Various minor powers are conferred on the Minister of Finance under individual items of the tariff schedule, or by the annual Finance Laws, such as the power to modify a lump-sum sales tax levied on imports.⁹⁵

Tariff-agreement powers.

Under the Constitution,⁹⁶ duty changes in commercial agreements require legislative approval before being put into effect. The 1925 tariff project (art. 2) introduced a double-column import tariff and stipulated that the lower-column rates may be bound or reduced in the negotiation of commercial agreements in return for special advantages, but did not empower the Executive to put such agreements into effect before legislative approval.

A law of April 19, 1932,⁹⁷ authorized the Council of Ministers, in urgent cases and on proposal by the Ministers of Foreign Affairs and of Commerce and Industry, to give immediate effect to international agreements after their presentation to the legislature for eventual approval. This law was originally effective only until April 1, 1933, but has been extended periodically by finance laws.⁹⁸ An emergency decree of September 16, 1939, authorized the Council of Ministers themselves to ratify international agreements when the legislature was not in session.

Nontariff import controls.

Foreign-exchange control has been in effect since October 7, 1931. Differential exchange rates have been used, and some exchange quotas are allotted among importers. Since June 1936 prior exchange permits have been required for a list (subsequently greatly extended) of commodities imported from nonclearing countries. After the outbreak of the war this list of commodities was made all inclusive. A decree published March 29, 1940, provided for a new office,⁹⁹ with an

⁹³ Later, in 1936 or 1937, the new wording of art. 15 was slightly changed to make it conform with the provisions of the decree law of December 3, 1931, as may be seen by comparing these provisions with the Serbian texts of art. 15 before and after the change as given, respectively, in Customs Annual of the Yugoslav Kingdom, 1936 (in Serbian), and the edition of the tariff project as of October 1, 1937, vol. 1.

⁹⁴ Finance Law 1938-39, serial No. 178, art. 100, on p. 491 of *Službene Novine*, No. 73, April 1, 1938; and Finance Law 1939-40, serial No. 152, art. 113, on p. 372 of *Službene Novine*, No. 74, April 1, 1939.

⁹⁵ Finance Law 1930-37; subsequently continued by annual finance laws.

⁹⁶ Art. 52, par. 2 of the Serbian Constitution (effective for Yugoslavia), and art. 65, par. 1 of the Yugoslav Constitution of September 3, 1931.

⁹⁷ Law No. 279 (*Službene Novine* No. 91, April 20, p. 427; and *Legislative Informationsdienst* No. 7675/1264). Based on art. 65, par. 3 of the 1931 Constitution, which specifically empowers the legislature to take such action when in the national interest.

⁹⁸ Finance Law 1933-34, art. 35; Finance Law 1934-35, art. 30; art. 73 of Law of Budget Twelfthths for August, etc., 1935, and for January, etc., 1936 (cited in Customs Annual of Yugoslav Kingdom, 1936, p. 257 n), and since extended by other measures, including Finance Law 1938-39, art. 44, on p. 455 of *Službene Novine*, No. 73, April 1, 1938; and Finance Law 1939-40, art. 53, on p. 331 of *Službene Novine*, No. 74, 1939.

⁹⁹ Bureau of Foreign Trade in the Ministry of Commerce and Industry.

advisory Foreign-Trade Council, to centralize the control of foreign trade, previously exercised by the National Bank and the Privileged Export Company. This centralized control took complete effect on September 23 following.