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FEDERATION OF NIGERIA

Report by the Committee to advise the
Federal Government on the Stimulation
of Industrial Development by affording
Relief from Import Duties and Protection
to Nigerian Industry

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LAGOS: FEDERAL GOVERNMENT PRINTER

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**Report by the Committee to advise the Federal Government
on the Stimulation of Industrial Development by affording
Relief from Import Duties and Protection to
Nigerian Industry**

Arising from recommendations made to the Federal Government by the Customs Tariff Advisory Committee we were appointed in November 1955, with the following terms of reference :—

- “To recommend to the Federal Government the general principles which should govern—
- (a) the relief of local industries from payment of customs duties on imported materials ;
 - (b) a decision as to whether any particular local industry should be granted relief in respect of import duty on the raw materials it uses and/or protection in the form of an increase of import duty on equivalent finished goods manufactured abroad ; and
 - (c) the method by which such relief should be granted.”

It was made clear to us at the outset that the Federal Government had not considered the principles involved in the adoption of protectionist measures but that it would consider any representations which we might make upon this and cognate subjects.

2. Our membership was :—

Chairman :

R. A. Clarke, D.F.C., Acting Deputy Financial Secretary.

Members :

H. A. G. Acton, Acting Permanent Secretary, Ministry of Trade and Industry.

J. E. B. Hall, Director, Commerce and Industries.

D. W. Miller, Comptroller, H. M. Customs and Excise.

E. C. Ealey, J.P., M.H.R., representing Lagos Chamber of Commerce.

Chief T. A. Odutola, O.B.E., M.H.A., member, Customs Tariff Advisory Committee.

We have met on four occasions and have had the advantage of studying a report prepared by the Colonial Office on ways and means of encouraging industrial development and have also examined the practice prevailing in other territories. In view of the length of our Report we feel it will make for ease of presentation if we summarise our main recommendations before reciting the various considerations which have prompted us to make them. The recommendations fall conveniently under three headings.

SUMMARY OF RECOMMENDATIONS—GENERAL PRINCIPLES

(Paragraphs 29 to 42)

3. We recommend that the Federal Government should take positive steps to stimulate the industrial development of Nigeria, in particular through affording relief from import duties on materials essential to industry and through the adoption of protective measures where necessary. We further recommend that such encouragement to industrial development :—

- (a) SHOULD NOT be afforded indiscriminately but only to encourage the development of industries of economic advantage to Nigeria which are likely eventually to be able to stand on their own feet ;

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(b) SHOULD be limited to the extent necessary to enable Nigerian industry to compete on equal terms with comparable imported products in the shortest possible time or to provide services at competitive or sellable prices ;

(c) SHOULD be afforded in respect of duties paid on imported capital goods in appropriate cases ;

(d) SHOULD be afforded to industries manufacturing goods for the domestic market or for export and to industries providing services ;

(e) SHOULD be afforded to both new and existing industries ;

(f) SHOULD be afforded only to entrepreneurs with adequate capital resources who undertake to provide adequate training for Nigerians and who are willing and able to provide safeguards against abuse ;

(g) SHOULD NOT be granted by way of relief from duties on imported materials readily available within Nigeria but should be given by way of relief from duty on any other raw materials, semi-processed manufactures and packaging materials ;

(h) SHOULD be afforded in three stages :—

(i) automatically to the extent that the duty on imported raw materials exceeds that on the equivalent finished product ;

(ii) if (i) is shown to be inapplicable or insufficient to meet the needs of the industry concerned, by subventions of up to a maximum of 100 per cent of the duties paid upon imported materials ;

(iii) if (ii) is shown to be inapplicable or inadequate to meet the needs of the industry concerned, by imposition of increased import duties on comparable imported products but not by the adoption of a system of prohibition or quantitative restriction of imports ;

(i) SHOULD NOT take the form of specific anti-dumping measures *unless the necessity actually arises* when it should be available to protect any form of local industry ;

(j) SHOULD, if afforded to one venture, be made available to the same extent to all entrepreneurs engaged in the same industry who otherwise qualify.

In addition, we recommend in principle that import duties paid on materials consumed during manufacture within Nigeria should in all cases be subject to statutory drawback if the resulting product is exported.

SUMMARY OF RECOMMENDATIONS—DECISION ON PARTICULAR INDUSTRIES

(Paragraphs 43 to 52)

4. We recommend that a decision as to whether, and to what extent, the development of a particular industry ought to be stimulated by Government should depend upon an assessment of the *overall* economic advantage likely to accrue to Nigeria from the expansion or establishment of such industry. This assessment should be based upon consideration of :—

(a) the extent of the need of the particular industry concerned for relief from import duties or protection, and

(b) whether the expansion or establishment of the industry is to the economic advantage of Nigeria, and

(c) the cost to the economy as a whole of providing the necessary relief or protection, and

(d) the probable effectiveness of the proposed measures in encouraging the development of the industry.

If, after weighing these various factors, the balance of advantage lies with the grant of a degree of relief or protection, and provided that the general principles outlined in the preceding paragraph are observed, we recommend that such measures should be afforded unreservedly and without further discrimination to the extent that the balance of advantage warrants.

SUMMARY OF RECOMMENDATIONS—MACHINERY FOR IMPLEMENTING RELIEF FROM IMPORT DUTIES OR PROTECTION

(Paragraphs 53 to 71)

5. We recommend that :—

(i) an enabling Ordinance drawn in broad terms should be enacted to empower Government :—

(a) to authorise the payment to industries which fulfil our criteria of sums equal to the whole or part of the duties paid on raw materials and/or capital goods imported by those industries ; and

(b) to enter into agreements to continue such relief for a period of years in appropriate cases.

(ii) the cost of the relief should be borne exclusively by the Federal Government ;

(iii) the safeguards necessary to prevent abuse of any concessions granted should be as simple as practicable ;

(iv) the widest publicity should be given both to the criteria which Government intends to adopt when considering measures to encourage the development of particular industries and to the fact when relief from import duties or protection has actually been afforded to a particular industry ;

(v) applications for relief from import duties or protection should be invited from any industrialist, actual or potential ;

(vi) an official Committee should be set up to advise Government upon :—

(a) specific applications for relief from import duties or protection made by individual entrepreneurs, and

(b) the extent to which existing import duties should be regarded as protective, and

(c) the extent to which concessions to industry now afforded through the medium of the Customs Tariff should be replaced by other forms of encouragement.

(vii) every effort should be made to respect the confidential nature of much of the information which entrepreneurs must disclose when claiming relief from import duties or protection ;

(viii) relief in respect of import duties on packaging materials should be effected by an outright exemption from duty under Part III of the Customs Tariff.

METHODS OF STIMULATING INDUSTRIAL DEVELOPMENT BY GOVERNMENT ACTION

6. We now seek to set out the various considerations which have prompted us to make these recommendations, but before examining the various forms of Government activity which can serve to stimulate industrial development we feel obliged to invite attention to four inescapable factors which, although self-evident, may only too easily be overlooked :—

(a) the true purpose of the industrial development of Nigeria is to increase the wealth of Nigeria and the well-being of her peoples. Any policy of assistance or protection which does not lead to this end is, in our opinion, both politically and economically unsound, however superficially attractive may be the short-term results of such a policy ;

(b) no practicable amount of assistance or protection will serve to attract or to establish industries unless local conditions, both economic and political, are reasonably conducive to their establishment ;

(c) a price has to be paid for all forms of assistance or protection—sometimes directly by Government in loss of revenue which may have to be made up by other tax-payers, sometimes indirectly by the home consumer through increased prices, reduced supplies or inferior quality ;

(d) the adoption by Nigeria of deliberate protectionist measures could conceivably lead to retaliation by other countries against the exports of Nigeria or of other Commonwealth countries. Such retaliation could be directed against exports of primary products or of manufactured goods but is extremely unlikely to take place provided that protective measures adopted are reasonable;

7. In order that we might be able to examine the implications involved in protection and assistance to industry by way of relief from import duties in their proper perspective, we endeavoured to survey the methods adopted in various territories for the encouragement of local industry and, in particular, the extent to which these methods might be appropriate to Nigerian conditions. We divided these measures into three broad categories: protection from competition, financial assistance and the provision of basic facilities and administrative services.

A.—PROTECTION FROM COMPETITION

(i) PROHIBITION OR QUANTITATIVE RESTRICTION OF IMPORTS

8. From the point of view of the importing country, the prohibition or quantitative restriction of imports is superficially attractive since its effect is certain and inescapable. For that very reason it is particularly disruptive of international trade and is now generally discouraged by countries abiding by the principles of the General Agreement on Tariffs and Trade, except to rectify a continuing adverse balance of payments, although it may be adopted in moderation as a legitimate means of fostering the development of nascent industries. A purely domestic disadvantage of considerable weight in underdeveloped territories is that this device does not permit of an automatic check upon the degree of efficiency of the local industry. Its adoption, therefore, for purely protectionist purposes as opposed to rectifying an adverse balance of payments, should ideally only be undertaken when it is possible to institute some form of price control over the local industry in order to offset the lack of incentive to efficiency.

(ii) TARIFF PROTECTION

9. This classic method of protecting a local industry from external competition appears to us preferable to the physical restriction of imports because it is capable of finer adjustment, because the cost to the consumer is seen more easily and because it does not entirely remove the incentive to efficiency in the local industry provided by external competition, whilst at the same time it does provide protection against unfair competition.

10. Import duties are the main source of revenue for Nigeria at her present stage of development and duties imposed purely for revenue purposes frequently have the incidental effect of affording protection to a local industry producing a dutiable article, except, of course, in cases where the equivalent manufactured article is admitted free of duty. There is frequently an element of protection to local industry even in cases where imported materials used by local industry are themselves liable to duty. This element of protection is represented by the difference between the amount of duty paid upon the imported finished product and the amount of duty paid upon any imported materials used by local industry to produce a comparable product, the difference arising usually from a lower effective rate of duty applicable to the imported materials used or, in cases where the *ad valorem* rate of duty is the same in both cases (usually 20 per cent *ad valorem*), because the value of the raw materials is less than the value of the finished article. In this case the amount of fortuitous protection afforded is in effect made up of the amount of duty payable upon those elements in the value of the imported product represented by overseas processing costs, profits and the higher freight charges frequently applicable to a finished product. In practice, however, this is frequently offset by greater real labour costs, less mechanisation, dearer runs of packaging materials and smaller production runs which involve proportionately higher overheads.

11. But duties imposed for revenue purposes are likely to be reduced or even removed when no longer required for that purpose. This is particularly likely to happen in Nigeria as the various Governments come to rely for their revenues more on direct taxation and less on indirect taxation. In the present circumstances of Nigeria, therefore, import duties cannot

be regarded as a sure method of giving protection to local industry nor can they serve as a long-term inducement to potential investors to establish new industries without some assurance that particular duties will in future be regarded as protective as well as fiscal in their intention if the need for some protection can be demonstrated. This does not necessarily mean that the level of duties required for protective purposes will be the same as the level required for revenue purposes. It might be found, for instance, that a duty of 10 per cent *ad valorem* is all that is required for protective purposes in respect of one particular commodity whereas the existing revenue duty is at the rate of 20 per cent *ad valorem*.

12. When considering the adoption of tariff protection measures as distinct from a purely revenue tariff, regard must be had both to the balance of domestic advantage and to possible international repercussions. It is, therefore, necessary to consider most carefully whether the benefits to be derived from the local establishment or expansion of any particular industry which necessitates the introduction of protective measures are sufficient to compensate for the price which will probably have to be paid for it. The balance of domestic advantage will clearly depend upon the merits of each case, having regard on the one hand to the importance to the economy of Nigeria of fostering the particular industry, together with the degree of inability of that industry to succeed without protection, and on the other to the cost which must be paid. This cost to the Nigerian economy will be made up of many distinct factors including loss of customs revenue by reason of a reduced level of imports, higher prices demanded for the products, whether local or imported, with consequent effects upon the domestic cost of living, shortage of supply if the local industry is unable to satisfy demand, in some cases inferior quality of the local product, a lessening of that direct incentive to local industrialists to improve the quality of their products or to reduce prices which is provided by unfettered competition, and the possible diversion of capital resources from other economic activities.

13. Of equal importance, however, are the external repercussions likely to follow such a course. Any exporting country which considers that its market has been damaged by protective measures introduced by Nigeria could legitimately protest and even in extreme cases take retaliatory action. Apart from the positive retaliatory steps which are open to other Governments should protective measures introduced by Nigeria adversely affect their welfare or industry to an unreasonable degree, there is a great danger of loss of goodwill towards Nigeria especially in countries where Nigerian exports enjoy preferential treatment. It is, of course, true that the development of Nigerian industry will almost certainly lead to an expansion of her external trade of far greater significance than the reduction in certain lines of her present trade brought about by the adoption of protective measures. Nevertheless, unless the full case for protection where necessary in order to stimulate such industry is made so that the Governments whose interests may be immediately affected are in full possession of the facts, misunderstanding, distrust and loss of that external goodwill which is essential to the promotion of Nigerian development may easily ensue. This danger would clearly be minimised if consultation could take place before protective measures are introduced.

(iii) PROTECTION FROM INTERNAL COMPETITION

14. A system of industrial licensing or the granting of a monopoly may have advantages in ensuring the proper (from the point of view of Governments) location of an industry or, in certain cases, ensuring that only a limited number of factories manufacture a product for which there is a limited demand. Such measures are, however, unlikely to prove of lasting value for there are very real dangers of overlooking the needs of consumers and of discouraging industrial efficiency. It is unlikely in the extreme that there will arise a general need for such protection from internal competition for some considerable time to come in an expanding economy such as that of Nigeria, where the market for almost all manufactured products grows daily.

(iv) EXPORT DUTIES

15. Export duties may have, as an incidental to their normal fiscal function, the effect of encouraging the local processing of a primary product which would otherwise be exported. The principal merits of this form of assistance are that local industry is ensured an adequate

supply of readily available raw materials and that the establishment of further secondary industries to use the processed products of the original industry is encouraged. On the other hand, disadvantages lie in the incidental nature of the protection which is given, for the incidence of export duties may be liable to sudden changes brought about by changes in the fiscal needs of Government or in the world markets for the products exported and, consequently, in the producer's ability to pay the export duty demanded. Under this system, the processing industry may receive financial assistance, not from Government, but from the primary producers, in so far as they sell their products to manufacturers at less than world prices. There may be little objection in times of high raw material prices to the encouragement of secondary industry at the expense of the primary producers but, if raw material prices fall to any serious extent on world markets, such a method of assistance to industry may be both impracticable and unjust. The extent of the assistance afforded depends upon many factors, the level of the export duty, world and local market conditions, the relative bargaining strengths of producers and manufacturers, *etcetera*, and cannot in Nigerian circumstances be regarded as other than a fortuitous and ephemeral form of assistance.

(v) CONTROL OF EXPORTS

16. The arguments against the quantitative restriction of imports as a means of encouraging local industry apply with even greater force to the restriction of exports. Apart from the limitations imposed by the General Agreement on Tariffs and Trade, this device is open to serious abuse. The restriction of exports of raw materials may only too easily result in monopolistic buying with the attendant possibility of exploitation of the producer. Nor can there be any practical limit beyond which an inefficient industry will fail to pay its way, since high production costs may be passed on to the primary producers in the form of low prices for the raw materials for which no other outlet is open.

(vi) PROTECTION IN NIGERIAN CIRCUMSTANCES

17. It follows then that we do not regard protective measures as a panacea available at all times to foster the indiscriminate development of Nigerian industry. In particular we would not advocate the adoption of a system of prohibition or quantitative restriction of imports or of exports for this purpose under any normal circumstances. Nevertheless, we do consider that cases will undoubtedly arise where the overall balance of advantage lies with the adoption of some measure of tariff protection. In this connection we think it reasonable that the economy of Nigeria should be called upon to pay some price for the promotion of local industry—the question is: “how much?” We have been concerned to ensure that we have set out what appear to us to be the more important factors which must be taken into consideration in order to determine where the overall balance of advantage lies before embarking upon a deliberate policy of protection for any industry.

18. We wish also to invite attention to three general points in this connection:—

(i) industries attempting to establish themselves in Nigeria are likely to be faced with a number of handicaps, such as the absence of trained labour, which will be severe at the outset, but which may be expected to grow less as time goes on. This suggests that some industries may require less protection after a time than during the first few years. It is important to consider even in the early years to what extent these difficulties may be offset by the incidental protection already afforded by the Customs Tariff and by ready access to raw materials and other purely local factors. However, it must not be forgotten that when one particular factory is operating at optimum efficiency that is frequently the time to encourage the expansion of the industry by building another factory. Thus all the initial handicaps are likely to recur, although possibly in lesser degree, and the return to the industrialist from the two factories taken together will for some time be proportionately less than from the original factory operating at optimum output. In such circumstances the need for assistance is likely to be a continuing one in order to stimulate the continued expansion of industries which have proved their ability to prosper.

(ii) the difficulties with which new industries are faced and the period necessary to overcome them will not be the same for all industries. It is rarely possible to determine in advance how long industries will take to become established and for this reason it is impracticable to impose protective duties for a fixed period of time. Provision must, therefore, be made for machinery to keep the level of such protective duties under frequent review.

(iii) the case for long-term as opposed to short-term protection and the degree of such protection which may be necessary are likely to depend less on the nature of the industry concerned than on the need for Nigeria to secure the establishment or expansion of local industries of some kind. This in turn is likely to depend on such factors as the level and trend of population in relation to local natural resources, the existence of open or concealed unemployment and the standard of living of the mass of the population.

B.—FINANCIAL ASSISTANCE

(i) INCOME TAX CONCESSIONS

19. Income tax concessions may take various forms, depreciation and replacement allowances, “tax holidays” and the carry-over of losses from one year to subsequent years. Despite their obvious inducement value to industrialists, it is nevertheless true that, since income tax is not a true cost such as rent or wages, relief from income tax can never turn a loss into a profit nor can it of itself render economic an uneconomic proposition, although it can materially assist in the expansion of an industry through the ploughing back of increased net profits.

(ii) RELAXATION OF IMPORT DUTIES

20. Assistance of this type is normally given by way of relief from import duties on capital goods required by industry and by the elimination or reduction of the duties on imported materials essential to the industry. The materials in question may be raw materials, semi-processed goods imported for further manufacture within Nigeria or packaging materials. These concessions operate in a variety of ways: in some territories many imports essential to industry are admitted duty-free; in others selected goods used in certain industries only are exempted; in others there is provision for individual undertakings to be afforded special customs concessions. There can be little doubt but that tariff relief for goods which enter directly into manufacturing costs is one of the most effective methods of stimulating the growth of local industry. It is significant that the Federation of British Industries regards the level of customs duties to be the most important single legislative influence upon the establishment of secondary industries.

21. Since measures of encouragement in this form must entail a loss of revenue to Government, it is obviously desirable to limit the loss by ensuring that the benefit goes only to the industry which it is intended to assist. Unless special measures are taken, since many materials essential to the particular industry which it is desired to help are also used for other purposes, the loss of revenue consequent upon a general exemption from duty of the materials in question may be considerably greater than the amount of financial relief which is actually afforded to that industry.

22. A double loss of revenue will also occur if the materials used for the manufacture of goods for internal consumption are freed from duty in one way or another and if the consumer goods so produced replace goods previously imported and subject to import duty. This immediate loss of revenue will, of course, be offset to some extent, especially by an increased yield of direct taxation not only from the industry itself and from its labour force but also by an increase in the yield of indirect taxation upon other consumer goods demanded by reason of the increment of purchasing power in the hands of the labour force. This consideration must always be present when a predominantly agricultural economy is being broadened by the introduction of an industrial element and serves to reinforce what we have said already, namely, that the revenues of Nigeria will in future depend less and less upon the proceeds of indirect taxation and more and more upon direct taxation.

(iii) GOVERNMENT PARTICIPATION IN INDUSTRY

23. Government participation in the equity of an industrial undertaking has already been used to encourage investment in Nigerian industry, especially where relatively large amounts of capital are required, for in the absence of large scale local private capital available for investment in industrial undertakings this is frequently the only way in which local participation can be assured. The advantages and disadvantages of this form of encouragement are too well known to merit further comment.

(iv) SUBSIDIES

24. Direct Government assistance may be afforded to an industry by means of a subsidy, but this can not generally be regarded as a satisfactory form of assistance. In the first place, a continuing subsidy must rely upon the goodwill of the Legislature year by year and thus cannot offer a long term measure of assistance. Further, prudence in the disbursement of public funds is essential at all times and it is administratively extremely difficult to adjust the rate of subsidy so that the industry at no time receives more than is necessary. The major objection to this form of assistance, however, is that it is hardly likely to stimulate efficiency in the industries subsidised.

(v) GOVERNMENT LOANS TO INDUSTRY

25. This method of affording encouragement to industrial development is well known in Nigeria and it is the accepted policy of the Federal Government to provide such assistance.

C.—BASIC FACILITIES AND ADMINISTRATIVE SERVICES

26. Apart from the primary functions of providing adequate communications and basic services, without which no industry can prosper, and of fostering a political and economic climate favourable to industrial development, Government action can serve to stimulate industrial growth by such means as the establishment of industrial areas or estates, the provision of central information and advisory services, the undertaking of research into industrial possibilities and the like. Insofar as a wide range of Government activity, including road, railway and port construction, the provision of power and water supplies, educational and training facilities, workers' housing schemes in urban areas and many others, can be said with justice to aid in the establishment of secondary industries, it is impracticable to mention everything, or even any considerable part, of what is already being done towards the provision of these basic facilities in Nigeria by the Governments of the Federation.

PRESENT POSITION IN NIGERIA

27. The principal methods by which Government already seeks to encourage industrial growth in Nigeria, other than by the provision of basic facilities, may be summarised shortly:—

- (a) Quantitative restriction of non-sterling imports, albeit for balance of payments reasons;
- (b) fortuitous protection afforded to a wide range of goods by the present Customs Tariff designed for revenue purposes;
- (c) fortuitous incentive afforded by certain export duties;
- (d) income tax concessions—generous capital allowances, carry-over of losses, small companies' relief and the tax-free holiday permitted to "Pioneer" industries;
- (e) exemption from import duty embracing a very wide range of capital equipment and some materials essential to industry. There are also instances of low rates of duty applicable to such imports when outright exemption is not given;
- (f) Government participation in certain industries;
- (g) provision of loans to industry;
- (h) establishment of trading estates—a model industrial estate will shortly also be established by the Federal Government;
- (i) provision of information and advisory services in Nigeria and the United Kingdom;
- (j) research, shortly to be intensified with the accent on industrial possibilities.

28. It is abundantly apparent that the protection and relaxation from import duties already afforded, whilst to some extent fortuitous, have been adopted largely as a result of *ad hoc* decisions taken from time to time without a clear understanding of the principles, methods or implications involved. This is not to say that the decisions have not been correct so far as they go, but they do not, in our opinion, go far enough and, somewhat naturally, have produced numerous anomalies. We turn now to consideration of the principles which we recommend should in future govern the policies of the Federal Government in the matter of affording encouragement, whether by way of protection or by relaxation of import duties, for we consider such positive steps of encouragement essential in order to promote the rapid industrial development of Nigeria.

GENERAL PRINCIPLES OF GOVERNMENT ENCOURAGEMENT TO NIGERIAN INDUSTRY

29. There is one basic principle which we regard as fundamental to the positive encouragement by Government of industry, whether such encouragement be given in the form of protection from external competition, relaxation of import duties on materials essential to industry or in any other manner. It is that such encouragement should not be afforded indiscriminately to all industry without regard to the furtherance of the true purpose of industrial development which, as we have already stressed, lies in the promotion of the wealth of Nigeria and the welfare of her peoples. Whilst there will frequently be a case for providing encouragement in greater or lesser degree to new or expanding industries it is the duty of Government, in the interests of the economy in general and the home consumers in particular, to ensure that such encouragement is afforded only to those ventures which, on the best economic judgement available, are likely to be to the overall economic advantage of Nigeria and which are likely eventually to prosper and to be able to expand their activities. Moreover, the amount, type and duration of the assistance given should ideally be limited as nearly as possible to the minimum necessary to enable the industry concerned to compete on equal terms with comparable imported products in the shortest possible time or to provide competitive services without the indefinite continuance of such assistance. Because of the very pronounced disadvantages to be associated with protection from competition, this is especially important in cases where protective measures are adopted. Although there may be instances where strategic or other considerations necessitate an indefinite continuance of protective measures, such instances should be regarded as the exception rather than the rule. On the other hand, where assistance is given by way of relaxation of import duties on materials used by a particular industry, it may be necessary to continue this form of concession for considerable periods in cases where the incidence of duty on the raw materials used exceeds that on the comparable finished products, in order to enable the industry to compete on equal terms. Such concession may have to continue until the necessary materials can be produced locally when the need for importation will no longer arise. Any relaxation of import duties which goes beyond this so as to reduce the incidence of duty on raw materials below that on the finished product would, however, introduce an element of protection, undesirable as a long-term measure although preferable to a deliberate increase of duties on imported products imposed specifically for protective purposes.

30. Our terms of reference enjoined upon us the task of examining, *inter alia*, the principles which should govern the relief of local industry from payment of customs duties on imported materials. Now imported materials are of two main classes: materials required for capital purposes, *e.g.*, structural steel for the erection of buildings, plant, machinery, etc., and materials required for manufacture, *e.g.*, raw materials, semi-manufactured goods and packaging materials. We regard relief from import duties on the latter class of imported materials as being of the greater potential benefit to industry, for the prices paid for these materials feature directly in manufacturing costs whereas the amount of capital expenditure incurred in the establishment of an industry has only an indirect bearing upon the cost of the finished product. The present Customs Tariff already provides exemption from import duties covering a wide range of capital goods and it can fairly be argued that the intention is that such goods should in general enjoy relief from import duties. Accordingly, insofar as materials imported for capital purposes

are at present liable to duty, we recommend that, provided the criteria summarised at paragraphs 3 and 4 are satisfied, relief from such import duties should be granted by way of a subvention equal to the full amount of the duties involved. By its very nature this relief will be given once and for all in respect of any particular capital project and will not be a continuing charge upon the revenues of Government.

31. We considered the relative merits of industries designed to manufacture goods mainly for internal consumption and industries whose products are designed mainly for the export market. We believe that a soundly based industry must rely upon the existence of a domestic unsatisfied market so large as that of Nigeria, there exists a very substantial field for the establishment of industries producing goods for internal consumption. Nevertheless, an increased and diversified export trade can hardly fail to be of economic advantage to Nigeria and we would not wish to recommend that Government encouragement should be limited to industries whose products are designed primarily for the domestic market, nor do we wish to recommend that encouragement should be afforded only to primary or manufacturing industries. The establishment or expansion of many types of industry which do not produce a tangible product may well be to the economic advantage of Nigeria. The hotel and workshop repair industries are cases in point. We recommend that encouragement should be afforded to such industries upon the same considerations as we recommend should apply to other forms of industry.

32. Quite apart from the possibility of Government support in deserving cases to industries concerned with the export market, we recommend that duties paid on raw materials and components imported for local manufacture within Nigeria should in principle be subject to drawback if the resulting manufactured article is exported from Nigeria. This is the general practice in many industrialised countries, including the United Kingdom, since materials imported for this purpose are not regarded as having been imported in the true sense of the word. We appreciate that the application of this principle will require detailed examination in order to meet the dangers inherent in such a system and we recommend that the Comptroller, Her Majesty's Customs and Excise, be invited to frame specific proposals to this end and that the law be amended to make such drawback possible as of right. Apart from affording encouragement to deserving industries engaged in the export trade, we urge that Government continue to exercise care to ensure that export duties imposed for revenue purposes upon the products of such industry are not so high as to render the local product uneconomic in world markets. This can only be done by careful consideration of the facts of each case.

33. We have also considered whether positive Government encouragement should be restricted to new industrial ventures, as is the intention of the income tax concessions afforded by the Aid to Pioneer Industries Ordinance, or whether it should be afforded to both new and existing industries alike, provided, of course, that they satisfy our criteria. We are agreed that existing industries should not be debarred from receiving relief nor even from enjoying protection where otherwise justified, especially if the concession is sought to enable the industry to expand, for the expansion of an existing industry may well equally be to the economic advantage of Nigeria as is the establishment of a new industry. Moreover, existing industries will usually have demonstrated their ability to compete without the aid of deliberate protective measures and may generally be expected to confine their requests for assistance to relaxation of import duties on imported materials. However, there may well be instances where an industry has benefited from the fortuitous protection afforded by the present Customs Tariff and will wish to make representations that some part, at least, of the present level of revenue duty on the equivalent imported products should be regarded as also protective in intent.

34. Whilst we would not necessarily stipulate that encouragement should be restricted to incorporated companies, whether public or private, we would advocate that the necessary concessions be given only to an individual or company who:—

(i) demonstrates his ability to command adequate capital, both in terms of cash and technical resources; and

(ii) if a non-Nigerian, undertakes to provide adequate training for Africans in management technique and technical skills; and

(iii) is willing and able to provide adequate safeguards against abuse of any concessions which may be afforded to him.

35. It goes without saying that we consider that the relief of local industries from payment of customs duties on imported materials, whether for capital or manufacturing purposes, should in any event be limited to relief in respect of those materials which are not reasonably available within Nigeria and should not extend to materials which are in direct competition with comparable products of Nigerian industry or agriculture. With this proviso we would regard the import duties payable on all raw materials, semi-processed manufactures and packaging materials as suitable for relief if, and to the extent that, Government decides to encourage the growth of any particular industry. For practical reasons, however, at least in the case of materials other than capital goods, relief must be limited to materials not bought out of open stock in Nigeria. Thus in order to benefit an entrepreneur must be a direct importer either on his own account or by order of specific and identifiable consignments through an agency.

36. It follows from the arguments which we have already adduced that in our view recourse should only be had to specific protective measures, where such measures are not merely incidental to revenue needs, in cases where relief from duty on imported materials used by Nigerian industry and any other practicable forms of assistance are insufficient to enable Nigerian industry to be able to compete upon equal terms with comparable imported products. Further, in cases where protective measures are adopted, which should normally only be in cases where the local product will be able eventually to compete on equal terms without such protection, we regard it as essential that the necessity for their continuance should be reviewed at frequent intervals, although we appreciate that in certain industries where initial difficulties are likely to be severe it may be necessary to agree to the continuance of protective measures for a minimum specified period.

37. We recommend, therefore, that steps designed to stimulate the development of local industry by way of relaxation of import duties or protective measures should be considered in three separate stages. In the first place, provided that the particular industry satisfies the conditions summarised at paragraphs 3 and 4 above, other than the requirement that it should demonstrate its need for assistance, we consider that relief should be afforded automatically to the extent that the rate of duty on materials used by that industry (whether raw materials, semi-processed manufactures or packaging materials) exceeds the rate of duty applicable to the comparable finished product imported from abroad. Although we are agreed that this measure of relief should be afforded only to industries which Government intends to encourage we do not regard the criterion of need as applicable in this case. The aim of this particular relief is to place Nigerian products on all fours with comparable imported products by removing unwitting discrimination against Nigerian industry, not by placing it in a favoured position. In order to make clear our intentions in this respect, we give an instance of the way this recommendation might work in practice. One anomaly present in the Customs Tariff is that parts and accessories for motor cars are dutiable at the rate of 20 per cent *ad valorem* whilst assembled cars attract duty at the rate of 15 per cent *ad valorem*. If an industry were to be established within Nigeria for the assembly of such vehicles from imported components, and provided that the other criteria summarised at paragraphs 3 and 4 above were satisfied, we would recommend that relief from import duty on the components involved should be granted automatically so as to reduce the effective rate of duty on the components to 15 per cent *ad valorem*. We appreciate that there are practical difficulties to be overcome in cases where the duty on materials is assessed on an *ad valorem* basis whilst the duty on the comparable finished product is specific. We do not regard these difficulties as insuperable, since under our proposals each case would be considered on its merits and in its own context, having regard to the relative amounts of duty payable upon the materials and upon the finished product.

38. If, after providing relief to the extent advocated in the immediately preceding paragraph, it is apparent that the incidence of the duty payable on the imported materials is still such as to render local manufacture uneconomic in Nigerian circumstances, especially during

the early years of the establishment or expansion of the industry concerned, we would recommend that further relief be afforded to the industry by a grant equal to the whole or a part of the duties payable on such materials to the extent that the local manufacture is uneconomic, subject to a maximum payment equivalent to 100 per cent of the duties paid. The extent of such relief will, of course, depend upon the circumstances of each particular case and can only be determined in the light of a detailed examination of the economics of the industry concerned.

39. In cases where even a full relief from import duties on materials used is insufficient, either temporarily or permanently, to enable Nigerian industry to compete with comparable imported products, consideration must be given to the adoption of tariff protection measures. This, as we have indicated, is not a measure to be adopted lightly and before a decision is made regard must be had to all implications involved. We are aware that in certain cases, *e.g.*, where imported materials are dutiable but the finished product is admitted duty free, or where local materials are used exclusively, protection may be the only practicable form of assistance to Nigerian industry at least in its early years. Nevertheless, this does not preclude the necessity for a most careful appraisal of all relevant factors before recourse is had to protective measures.

40. It is worthy of mention that although the immediate cost to Government of reimbursing import duties is tangible and therefore readily apparent, the costs of protection to the economy as a whole are none the less real because they are not so readily seen. Since in most cases it is probable that some relaxation of import duties on manufacturing materials must be a continuing concession, at least until Nigerian industry can itself provide the raw materials, the apparent cost to Government will increase as industry expands and consumes greater quantities of imported materials. We say "apparent cost" advisedly for any sums paid to industry will be backed by a corresponding amount of duty paid. (There are, however, complications in Nigerian circumstances arising from the revenue allocation arrangements in force—we shall refer to this in a later paragraph). Moreover, to the extent that the concession makes things easier for Nigerian industry, thus enabling the industry to make more profit than would otherwise be the case, Government will enjoy an increased yield in direct taxation. Insofar as the economy as a whole is concerned, the effect of relief from import duties will be to help Nigerian industry to compete with imported products without deliberate protectionist duty being put on those products. In order to achieve this, Nigerian industry will be given a direct incentive to keep down prices to a figure not exceeding the price of the imported product. To the extent that local industry is successful in this, the amount of the relief given is effectively transferred to the public in general and the consumer in particular.

41. We are aware that there exists a very real fear that, in the absence of protective measures, overseas manufacturers may attempt to ruin a nascent local industry by a deliberate policy of dumping, *i.e.*, by offering their products to the local market at uneconomic prices for a period of time sufficient to drive the local industry out of production. We feel, however, that it is possible to guard against this danger, insofar as it is a real one, by specific anti-dumping tariff measures *should the necessity arise*. We regard it as undesirable to raise duties permanently to an unnecessarily high level in excess of that required in order to protect nascent industries from normal overseas competition, and thereby to increase the cost to the consumer, in order to guard against a contingency which may never arise. We would, however, regard anti-dumping measures as appropriate to protect all forms of Nigerian industry and not merely those types of industry which Government especially desires to encourage.

42. We appreciate that complications are likely to arise where two or more entrepreneurs are engaged in the same industry since, if he can demonstrate the need, one might apply for and be granted a measure of relief from import duties. If such assistance is afforded to one entrepreneur we do not feel that the same measure of relief can with equity be withheld from other entrepreneurs engaged in producing similar products or providing similar services solely because their need for assistance may not be so great as that of the original successful applicant. To do so would be to penalise the efficient and to aid the inefficient, thereby producing a completely distorted domestic field of competition. It is difficult to imagine any measure less likely to stimulate the development of efficient local industries in Nigeria. We, therefore,

recommend that, if a measure of relief from import duties is granted to one particular venture, the same measure of relief should be afforded to all entrepreneurs engaged in that particular industry *who otherwise qualify* (*e.g.*, provided that they command adequate capital resources, are willing to provide safeguards against abuse, etc.) for so long as such relief is afforded to the original successful applicant. Instances may, of course, arise where relief from import duties is refused to an applicant because he has failed to demonstrate his need but where a second entrepreneur engaged in the same industry succeeds. Following our line of reasoning we would recommend that the original applicant should now be granted the same measure of relief as is afforded to the second successful applicant. The argument adduced in this paragraph serves to reinforce our already strong belief that care must be taken to afford relief only to those industries which are likely to be able eventually to stand on their own feet. The fact that competing ventures are able to prosper without such relief might well be an indication of inefficiency on the part of an industry if *prolonged* assistance is necessary in order to enable it to develop or even to exist.

DECISION ON GRANT OF RELIEF FROM IMPORT DUTIES OR PROTECTION TO PARTICULAR INDUSTRIES

43. It follows from the principles which we have endeavoured to set out that the decision to provide relief from import duties, or protection, or both, to any particular industry must depend upon the need of the industry concerned for such assistance weighed against the benefits and overall economic advantages likely to accrue to Nigeria from the establishment or expansion of the industry. The fundamental aim of any form of assistance should be to stimulate the growth of Nigerian industry by enabling it to compete upon equal terms with comparable imported products or to provide services at competitive prices. In order that this fundamental aim is kept constantly in mind we have listed under four main heads a series of criteria which we recommend should be applied when considering whether or not a particular industry should receive Government encouragement.

A.—What is the Need of the Industry for Relief from Import Duties or Protection?

44. Determination of the amount, type and probable duration of assistance necessary to enable any particular industry to prosper in Nigerian circumstances will obviously depend upon the individual factors applicable to each case. A detailed examination of the economics of the industry will be required and entrepreneurs must be called upon to disclose detailed information, some of which may be of a confidential nature, in support of their contention that relief from import duties or protection is necessary in order to encourage the development of the industry. From examination of this information it might be found that investment in certain industries is already sufficiently attractive without the necessity to provide the added incentive of direct Government financial assistance or protection.

B.—Is the Establishment or Expansion of the Industry to the Economic Advantage of Nigeria?

45. When considering this point, it will be necessary to have regard both to the capacity of existing local ventures to satisfy the demand for the products of the industry concerned and to the economic desirability of encouraging certain broad spheres of industrial activity. If existing local ventures already operating profitably and economically are capable of satisfying fully the demand for the products concerned without further expansion, it would obviously be wasteful of scarce economic resources, and undesirable on other grounds, for Government to institute measures designed to encourage the expansion of these ventures or the establishment of new ones. We do not think that this situation will often arise in the present stage of Nigerian economic development but we mention the possibility in order to underline the fundamental principle that assistance should not be afforded indiscriminately to all forms of local industry regardless of the needs of the industry or of the economic advantage of Nigeria. It is much more likely in present circumstances that some expansion of existing industries or establishment of new ones will be needed in order to satisfy demand.

46. We now turn to the desirability of affording especial encouragement to particular branches of local industry. Broadly speaking, Nigerian industries, existing or potential, fall into five main categories, each of which has a varying impact upon the general economy :—

- (i) industries based exclusively upon the production or processing of local raw materials, e.g., tin mining, expression of vegetable oils ;
- (ii) industries based predominantly upon the processing of local raw materials although some important elements in manufacture have to be imported, e.g., cement and soap manufacture ;
- (iii) industries where all or almost all raw materials must be imported, e.g., manufacture of nails ;
- (iv) servicing industries, e.g., repair and maintenance of plant and machinery ;
- (v) miscellaneous industries, some of which are not directly engaged in manufacturing processes, e.g., building and construction, transport, printing, hotel industries, etc.

47. In our view it may be accepted that the development of industry based exclusively or predominantly upon the production or processing of local raw materials will in almost every case be to the economic advantage of Nigeria. Examples of these categories of industry were cited in the Report of the International Bank Mission, among them being the processing or manufacture of :—

- Vegetable Oil products
- Food, drink and tobacco products
- Textiles and apparel
- Leather goods
- Rubber products
- Pulp and wood products
- Non-metallic mineral products, e.g., cement, ceramics, etc.

48. Insofar as the other categories are concerned, we believe that the economic advantage likely to accrue to Nigeria from the expansion or establishment of industries should be considered in the light of the following criteria :—

- (i) will be development of the industry result in :—
 - (a) a substantial saving of imports into Nigeria, or
 - (b) an increase of exports from Nigeria, or
 - (c) alternatively, will the industry satisfy a need for products or provide a service not at present available in Nigeria ?
- (ii) is the industry ancillary to one based exclusively or predominantly upon the production or processing of local raw materials, e.g., a machine repair shop or factory for the manufacture of metal containers ?
- (iii) is the industry likely to be a large employer of labour ? This is especially important where there is substantial open or concealed unemployment or where the trend of population tends to outstrip natural resources ;
- (iv) is the industry likely to promote the development of ancillary industries ?

49. Especial consideration should, in our opinion, be given to an industry which is, or is likely to be, a large employer of labour and which is likely to promote the spread of technical "know-how" among Nigerians. In some territories assistance is only given to certain types of industry if they employ more than a prescribed minimum labour force. It might well be that some such criterion should be adopted in Nigeria in the case of industries where the overall economic advantage would otherwise be marginal.

C.—What is the Cost to the Economy as a whole of Providing the Relief or Protection Sought ?

50. Virtually all forms of assistance will entail a sacrifice by some section of the community although others may actually gain. The detailed assessment of this net cost may well prove difficult, especially where assistance for a period of years is envisaged. Among the factors which must be considered are :—

- (i) the cost to be paid by consumers through higher prices and/or inferior quality if protection is involved ;
- (ii) the cost to Government in net loss of revenue, that is losses due to payments in relief of import duties, or to a diminished yield of import duties arising from the adoption of protectionist measures intended to reduce the volume of imports, offset by potential increments of revenue from other sources associated with the industry ;
- (iii) the probable effects, both immediate and long term, upon local producers of raw materials ;
- (iv) the probable effects of the development of the particular industry upon other economic activities, e.g., competition for scarce local factors of production (the enticement of skilled labour from existing employment, competition for limited resources of fuel and power, etc.), the impact of large-scale production upon cottage or home industries or upon other existing enterprises engaged in the manufacture of similar products ;
- (v) possible international repercussions.

D.—Are the Measures Proposed likely to be Effective in Encouraging Industrial Development ?

51. This question is again one to which it is unlikely that a definite answer can be given in any particular set of circumstances. Some of the factors which should be taken into account when attempting to judge the effectiveness are :—

- (i) are the general economic conditions—basic services, raw material supplies, labour situation, availability of markets, etc.—reasonably favourable for the establishment or expansion of the particular industry ? In other words, are the impediments to industrialisation which the measures are designed to overcome the only, or main impediments ?
- (ii) in cases where protective measures are involved, is the local market large enough to create a demand capable of sustaining the industry, either on its own or in conjunction with export trade in cases where export markets are possible ?
- (iii) are the measures likely to encourage the development of one particular type of industry or of a particular industry at the expense of others, and therefore not to cause any net expansion of industry in the country ?

52. If, after weighing these various factors, the balance of advantage lies with the grant of a degree of relief from import duties or protection, and provided that the general principles summarised at paragraph 3 above are observed, we recommend that such measures should be afforded unreservedly and without further discrimination to the extent that the balance of advantage warrants.

MACHINERY FOR IMPLEMENTING RELIEF FROM IMPORT DUTIES OR PROTECTION

MANNER OF AFFORDING RELIEF OR PROTECTION

53. We considered first the manner in which relief from import duties or protection should be given and then the machinery necessary for administration. There are at first sight three practicable methods of affording relief from import duties payable on materials used by industry :—

- (i) by prescribing an exemption from duty or a reduced level of duty applicable to the appropriate materials, effected by amendment to the Customs Tariff ;
- (ii) by permitting selected organisations to import certain materials at either a nil or a lower rate of duty than the normal, accompanied by subsequent control by the Customs and Excise Department to ensure proper use of the materials ;

(iii) by payments to selected industrialists of amounts equivalent to the whole or part of the duties paid upon imported materials, payments to be made only after certification of the amount of the claim and of proper use by the Customs and Excise Department.

Each of these methods has its advantages and its disadvantages in the Nigerian context.

54. The first method, conceding an outright exemption from duty by including the materials in question under Part III of the Customs Tariff or a reduced rate of duty by provision under Part I of the Tariff, has frequently been used in the past in order to implement *ad hoc* decisions. Examples of this may be seen at item 48 of Part III, which provides for the exemption from duty of certain substances used in the manufacture of plywood, and at item 27 of Part I, which provides for a reduced rate of duty in the case of materials essential to the tyre-retreading industry. This method of providing relief affords obvious advantages to the industrialist. Since the concession is available to all importers regardless of the use to which they put the materials, there is no necessity to introduce relatively expensive safeguards against abuse in order to satisfy the Customs authorities that the materials are in fact used solely to benefit the industries which the concession was designed to assist. Moreover, the Customs Tariff, although liable to amendment at any time by the Legislature, is by its very nature regarded as providing a more permanent form of relief to industry than can be afforded by subventions payable from amounts appropriated annually by the Legislature. Finally, the industrialist is not put to the financial and administrative inconvenience of paying duties in the first instance and claiming refunds at a later date.

55. Equally this method offers obvious disadvantages to Government, especially in view of the federal nature of the Nigerian constitution. In the first place, since the concession is available to all importers, the loss of revenue is at least potentially greater than the amount of financial assistance given to the industries which it is desired to assist; other industries and even non-industrial consumers will also benefit. Secondly, since the machinery for introducing changes in the Customs Tariff is, perfectly properly, somewhat circumscribed, it is difficult to adjust individual Tariff items to produce just the amount of relief which it is desired to give, especially when the needs of industry are constantly changing. Moreover, although amendments to the Customs Tariff are, of course, within the exclusive legislative competence of the Federal Government, the proceeds of all customs and excise duties are divided among all five Governments of the Federation in constitutionally prescribed proportions. Thus any amendment to the Customs Tariff enacted by the Federal Government will affect the revenues of all the Governments of the Federation even though those Governments might not approve of the motives which prompted any particular amendment. In the past the Customs Tariff has been used almost exclusively as a revenue machine and we feel that its adaptation to provide relief to selected industries would fundamentally transform its nature and could probably only be achieved without serious friction if there were consultation and agreement among all five Governments before any amendment designed to provide relief to a selected industry could be introduced. It is, of course, true that each of the Governments has repeatedly affirmed its intention to promote the industrial development of Nigeria but opinions might well differ as to which particular industries should be assisted and to what degree. Ensuing consultations, even if productive of agreement, would entail very considerable delays. On the other hand, the adoption of this method would be to the financial advantage of the Federal Government in that the cost would be shared among all the Governments in proportion to the loss of revenue they would sustain. With some regret, however, we decided that the disadvantages attached to this method of affording general relief appeared to us to outweigh the advantages at the present time, although there might be isolated instances where outright exemption from duty by this means would be the right and proper course. In our considered view, the relief from duty on packaging materials would be one such instance where outright exemption through the Customs Tariff is warranted. It would undoubtedly encourage many types of Nigerian industry which are facing increasing competition from overseas manufacturers who have come to rely more and more upon attractive packaging in order to promote sales. We agree that the definition of packaging materials should be tightly drawn in order to minimise the loss of revenue on the import of such materials for non-industrial purposes such as brown paper for wrapping parcels.

56. The second method which we considered—permitting selected organisations to import certain materials at rates of duty lower than those generally applicable—has its own peculiar advantages and disadvantages. Although the industrialist would be obliged to introduce measures to prevent abuse of the concession, he would be relieved of the necessity to pay the appropriate duties and claim reimbursement later with all the administrative and financial inconveniences attached to such a course. He would also expect, rightly or wrongly, that the concession was of a more permanent nature than if it were to depend upon the goodwill of the Legislature renewable at annual intervals by the appropriation of funds to meet the costs of reimbursement. Government too would benefit since the cost of the concession would not exceed the amount of relief given to selected industries. On the other hand, the inter-governmental complications inherent in the present federal constitution insofar as the allocation of revenue is concerned would still exist and considerable amendment to existing laws would be required. Since a concession in this form would by its very nature fall to be administered by the Customs and Excise Department, who could not have discretionary powers in granting or withholding relief, the law must seek to crystallise and to express in unequivocal terms the nature and scope of the concession given. We feel that it would be unwise to attempt to prescribe in legal form the criteria for the grant of relief and the method by which it should be implemented in the initial stages of a new field of activity by Government since some flexibility in the arrangements appears to us to be eminently desirable. This method would, of course, have the added advantage for Government, that it would be possible to prescribe safeguards against abuse and penalties for offenders, and, for the industrialist, that he would know exactly where he stood. We feel that this may well be the solution for the future, provided that the complications associated with the revenue allocation arrangements can be overcome, but we would be loath to recommend it at the present juncture until experience has been gained of the extent and duration of the relief required by the various types of industry deserving of encouragement.

57. The principal advantages of the third method which we considered—payments to selected industrialists of sums equal to the whole or part of the duties paid on imported materials from funds appropriated annually for this purpose by the Legislature—are three-fold:—

- (i) the arrangements would be flexible within the limits of the principles laid down;
- (ii) the cost to Government of the concession would not be materially greater than the amount of relief afforded to industries which it was intended to encourage. There would, of course, be some additional cost involved in the provision of staff to administer the necessary safeguards;
- (iii) it would be relatively simple to adjust the degree of relief afforded to suit the needs of each particular industry.

58. The principal disadvantages of this method are also three-fold:—

- (i) the industrialist would be obliged to provide reasonable facilities to prevent abuse of the concession and Government the necessary staff to administer them;
- (ii) the industrialist would be put to the trouble and expense—his working capital requirements would increase—of paying duties in the first instance and claiming reimbursement later;
- (iii) unless special arrangements were to be made the concession would depend upon an annual renewal of the goodwill of the Legislature for the provision of funds and no guarantee could be given that the concession would extend beyond the year in which it was given.

Relief given by this method would, of course, be afforded entirely at the discretion of the Federal Government in accordance with its own policies and would obviate the necessity to consult with the other Governments of the Federation. The entire cost of the concession must therefore be borne by the Federal Government, although this would be off-set to an ever increasing degree by the fact that the proceeds of company tax, which may be expected to increase as industry expands, are retained by the Federal Government.

59. We have been exercised to devise a method which combines the advantages of flexibility and minimum cost both to Government and industry with the desirability of providing assurances to industry in appropriate cases, especially where large capital investment is involved, that concessions designed to stimulate the expansion or establishment of industry will not be arbitrarily withdrawn before they have achieved their purpose. We, therefore, recommend that an enabling Ordinance, drawn in very broad terms, be enacted so as to authorise the Federal Government to make reimbursements to selected industrialists of the whole or part of the duties paid on imported materials and, in appropriate cases, to enter into an agreement for the continuance of such concession for a specified period of years, subject to renewal after this period if necessary. The funds to implement the concession should continue to be made available by the Legislature who would, of course, be entitled to refuse to appropriate funds for new concessions although they would be bound to honour existing commitments. We envisage that the enabling Ordinance would :—

(i) empower the Governor-General in Council to authorise reimbursements of import duties to named ventures if he was satisfied that :—

(a) the establishment or expansion of the particular industry was in the overall economic interests of Nigeria after having regard to all relevant factors, and

(b) the reimbursements were necessary in order to encourage the particular industry to produce goods or to perform services at competitive or sellable prices and/or in order to ensure that the incidence of duty payable on raw materials used in local manufacture does not exceed the incidence of duty payable on equivalent finished products.

(ii) stipulate that such reimbursements should not exceed the amounts paid by the venture concerned in import duties on :—

(a) capital goods, and

(b) raw materials or other goods used in the manufacture, distribution and sale of the local product or in the performance of the service.

(iii) empower the Governor-General in Council to enter into an agreement to continue the payments of such reimbursements for a specified period of years, without prejudice to a renewal of the concession after this period if necessary.

(iv) empower the Governor-General in Council to make regulations generally for the purposes of the Ordinance and, in particular, for the prevention of abuse of the concessions granted under it and the prevention of unauthorised disclosure of confidential information. The Ordinance should also prescribe penalties for breach of such regulations.

60. It should be noted that the Governor-General in Council would not under these arrangements authorise the payment of particular sums of money to the owner of the venture concerned but would authorise the reimbursement of either the whole or a stipulated proportion of the sums paid in import duties on certain stated imports. We envisage that payment would be made at quarterly intervals upon the basis of a claim by the entrepreneur, certified by an officer of the Department of Customs and Excise, that he had paid £X in import duties on the quantity of the materials in question which had actually been consumed by him during the quarter to produce the goods or to perform the services for which the concession was granted.

61. We are only too well aware that this system will involve the industrialist in some expense in the provision of safeguards to ensure that the concession is not abused—equally, it will involve the Customs and Excise Department in additional expense to administer the safeguards. For these reasons we hold it to be essential that the system of safeguards adopted should be as simple and clear as human ingenuity can devise. There is a great danger that, if a complicated and expensive system is demanded, the advantages to the industrialist of receiving relief will to a large extent be nullified by unproductive expenditure incurred on maintaining the safeguards and he will accordingly be deterred from accepting such relief, even where it is warranted and where Government policy is that it should be freely afforded. The present Comptroller, H.M. Customs and Excise, who has had considerable experience of this subject in other territories, has devised a simple procedure which might well be incorporated in draft regulations to be made under the enabling Ordinance.

62. There appear to be no administrative or legislative complications to the adoption of protective measures, whether by way of prohibition or restriction of imports, which we do not recommend as a general rule, or by way of increases in particular import duties, which we recommend in cases where all other practicable forms of encouragement prove inadequate. It is probable that the present Customs Ordinance provides powers sufficient to enable either of these measures to be taken should the necessity arise. It must, however, be remembered that any such measures would not be without effect upon the revenues of all the Governments of the Federation.

MACHINERY OF ADMINISTRATION

63. We attach great importance to the desirability of affording the widest publicity to any measures which Government intends to take in order to stimulate industrial growth in Nigeria. Every company or person interested in the establishment or expansion of an industry within Nigeria is entitled to know whether, to what extent and under what conditions, his venture will receive positive encouragement from Government. For this reason we recommend that the widest publicity be given both in Nigeria and overseas to such of our recommendations as are acceptable to Government—the willingness of Government to take positive steps to foster the development of Nigerian industry is of limited value as a stimulant to industry unless afforded the maximum publicity. Moreover, equity demands that the same measure of encouragement should be afforded to all engaged in the same industry who can satisfy the necessary criteria and should not be restricted to the few who may be aware of the existence of an inadequately publicised concession. Thus full publicity should also be given to the fact when relief from import duties or protection is granted to a particular industry in order that others engaged in that particular industry might benefit.

64. It would, in our view, be appropriate that detailed examination of the claims of industry for relief or protection should be carried out by the Department of Commerce and Industries, but we felt it essential that a Committee be established to advise Government in the light of such examination as to whether, and to what extent, relief or protection should be granted to any particular industry. We considered whether to recommend that the Customs Tariff Advisory Committee could perform this function but decided that it would not be an appropriate body to do so. We have already remarked that applicants for relief from import duties or protection must be required to produce for inspection audited accounts and other information of a confidential nature and, in our opinion, it would be unfair to expect industrialists to produce such information to a Committee comprised partly of unofficials, some of whom may well be business rivals of the applicant himself. Moreover, we envisage that this Committee must hold very frequent meetings and it would be unreasonable to expect representatives of Commerce in the various areas of Nigeria, for instance, to devote a very great deal of time to what is basically a Government matter. We, therefore, recommend that an official Standing Committee be set up to advise Government on such matters with the following membership :—

Chairman :

Permanent Secretary, Ministry of Trade and Industry or representative.

Members :

Deputy Financial Secretary or representative.

Director of Commerce and Industries or representative.

Comptroller, Customs and Excise or representative.

Commissioner of Income Tax or representative (preferably an officer with experience in company taxation).

Another official member nominated from time to time by the Minister of Trade and Industry.

Secretary :

An officer of the Ministry of Trade and Industry.

We envisage that this Committee will perform three main functions, with each of which we will deal in turn.

A.—CONSIDERATION OF SPECIFIC APPLICATIONS FOR RELIEF FROM IMPORT DUTIES OR PROTECTION

65. We recommend that, after wide publicity has been given to the details of the positive measures of encouragement which the Federal Government is willing to offer, applications for relief from import duties or for protection should be invited from any industrialist who considers that his industry would qualify to receive encouragement from Government. Some applications will be received from persons already engaged in industry within Nigeria but we recommend that any person who may be interested in the establishment of such an industry should also be invited to apply even though he has not as yet commenced operations. When considering such applications the Standing Committee will, we trust, have regard to the various criteria which we have sought to lay down in this Report. It will obviously facilitate their consideration and avoid the necessity for constant reference back to the applicant if they are made in a standard form containing all the information which is required for a preliminary examination of the application. We have, therefore, listed at the Appendix to this Report a series of questions which we recommend should be incorporated in a standard application form to be issued free of charge to any interested party. The assistance of the Departments dealing with Commerce and Industries should, of course, be freely available to assist in framing these applications.

66. Some of the information of which the Committee will require to be aware when considering applications is necessarily of a confidential nature. We are thinking here of such matters as audited balance sheets where these are not made public, details of manufacturing costs, proportions of materials used in manufacture, etc. Much of this information would be of value to the industrial rivals of any applicant and we regard it as essential that every precaution be taken to ensure that industrialists are not deterred from seeking relief or protection because of a fear that their trade secrets might be divulged. We, therefore, recommend that information of this nature should not be called for on the standard application form but that each applicant whose industry appears to be *prima facie* eligible for the concession should be given the choice of producing such information for inspection before the Committee in person, or of submitting it to the Secretary to the Committee under registered cover upon the understanding that it would be scrutinised only by members of the official Committee and would be returned to the applicant after the meeting at which the application is considered. In many cases it would be of advantage for the applicant to discuss the details of such confidential information with individual members of the Committee sometime prior to the meeting at which the application is to be considered. All applicants invited to present such information should be encouraged by the Secretary to hold such prior discussion in order to facilitate the Committee's deliberations. We further recommend that consideration be given to the inclusion within regulations to be made under the enabling Ordinance of some such provision regarding official secrecy as is contained in section 4 of the Income Tax Ordinance, Chapter 92 of the Laws of Nigeria. In our view, it would go a long way to defeat the objects of Government in seeking to provide a stimulus to industrial development if particular industrialists did not feel that confidential information which they would be called upon to disclose would be respected as such. If there was any doubt in the mind of an industrialist on this score, he might well be tempted to decide against seeking relief or protection.

67. We suggest the following procedure for dealing with applications from industry for relief from import duties or protection when received by the Secretary to the Committee, to whom they should be addressed:—

Stage I—Preliminary examination of application

(i) Secretary to scrutinise the application form to ensure that all relevant information is supplied and to refer to the Regional Government concerned seeking its views, if the industry is not situated in Federal Territory, and to Department of Commerce and Industries for examination and report;

Stage II—Confidential information

(ii) Committee to consider each application in the light of such Regional comments and report and, where it appears *prima facie* that the industry is one which Government

would wish to encourage, to invite the applicant to produce in person, or to submit for inspection, such further information as it might feel necessary;

Stage III—Objections

(iii) Where it appears to the Committee after considering this information that the industry should *prima facie* be granted relief from import duties or protection, the Secretary to publish a notice in the *Official Gazette* and the Press to the effect that Government is considering affording relief from import duties or the imposition of protective duties in order to encourage the development of an industry producing ABC products (or providing XYZ services) inviting representations from interested parties within one month;

(iv) Committee to consider each application in the light of objections received and to make appropriate recommendations to the Minister of Trade and Industry;

Stage IV—Decision of Government

(v) Minister of Trade and Industry to consider recommendations of Committee and to make appropriate submission to the Governor-General in Council for decision unless both he and the Committee are in favour of rejecting the application in which case the applicant would be so informed;

Stage V—Implementation of decision

(vi) Secretary to inform all concerned of the decision of Governor-General in Council and, where relief from import duties is involved, to invite the Comptroller, Customs and Excise, to supervise the introduction of necessary safeguards. Where protective duties are to be imposed, the Financial Secretary to implement the decision;

(vii) Secretary to invite applicant to submit claims for reimbursement at quarterly intervals, duly certified by the Comptroller, Customs and Excise, as to the amount of the claim and the proper use of the materials, and to arrange payment. (We have recommended that payment should only be made after the materials have actually been consumed);

(viii) Secretary to publish notice in *Official Gazette* and Press giving details of the extent of the relief from import duties or of protective measures granted in order to ensure that other persons engaged in similar industry are aware of the concession and are invited to apply for such relief if they so wish.

We have used the example of a successful application for purposes of clarity but it should, of course, be open to the Committee to recommend to the Minister of Trade and Industry at any stage that a particular application should be rejected. We then suggest that the Minister should either accept this recommendation, in which case the applicant would be so informed and that is the end of the matter, or he should instruct the Committee to proceed with the application to the next stage.

B.—REVIEW OF PROTECTION AFFORDED BY PRESENT CUSTOMS TARIFF

68. We have remarked at paragraphs 9 to 11 above that the present Customs Tariff affords a measure of fortuitous protection to many Nigerian industries but that such protection cannot be regarded by an industrialist as certain without some assurance that the import duties in question, or some part of those duties, will in future be regarded as being deliberately protective in addition to their purely fiscal functions. We believe that it would also be of advantage to Government when contemplating amendments to the Customs Tariff to have some positive guidance as to which duties ought to be regarded as to some degree protective and those which may be regarded as purely fiscal.

69. We recommend, therefore, that the Committee should examine this question as soon as the immediate rush of work consequent upon the introduction of the proposed system of reimbursements has eased. We suggest that the Committee should invite representations from industrialists engaged in local industries as to what extent, if at all, particular import

duties should be regarded as protective. We further suggest that when considering these representations the Committee should adopt the same criteria as when considering a straightforward application for tariff protection. If the Minister of Trade and Industry supports the recommendations of the Committee we suggest that he should take the necessary steps, in conjunction with the Financial Secretary, to seek the approval of the Governor-General in Council to declare that the duties in question, or some part of those duties, are regarded by Government as for the time being protective duties and to make a public announcement to this effect.

70. We appreciate that this task will not be easy and will involve a great deal of work, but we feel it essential, in the interests both of Government and of industry, that the position be clarified as soon as possible, even if it is necessary to deal with the subject piecemeal and to consider the degree of protection required by the various forms of Nigerian industry separately. For reasons which we have already given when considering the principles of protection, it will be necessary to subject any decisions taken upon this matter to review from time to time in the light of changing circumstances.

C.—REVIEW OF RELIEF AFFORDED BY PRESENT CUSTOMS TARIFF

71. Throughout this Report we have stressed that relief or protection afforded by Government to local industry should be limited to the minimum necessary to achieve the true aims of industrial development and that, so far as possible, the cost to Government should not be greater than the amount of assistance afforded to industry. At paragraphs 54 and 55 we have pointed out that relief from duties afforded by exemption or by the prescription of a reduced rate of duty in the Customs Tariff tends to benefit all users of the materials in question and not merely the industry which it is desired to encourage thereby increasing the cost to Government of the concession without commensurate benefit to industry. The present Customs Tariff contains many such instances and we recommend that the Committee should examine all items in the Tariff with a view to recommending whether certain concessions afforded by this means should be withdrawn and replaced, in appropriate cases, by reimbursement facilities granted to industries which Government seeks to encourage. The saving to Government likely to accrue from such an examination will go some way towards meeting the cost of the measures which we have advocated in this report.

CONCLUSION

72. We have been at pains to stress throughout this Report that the aim of Government should be to stimulate industrial development by creating conditions under which a local product can eventually compete price for price and quality for quality with a comparable imported product or under which a local industry can provide first rate services at competitive prices. In our considered view unless special considerations of strategic or vital social significance dictate to the contrary, any policy which seeks to go further and to "feather-bed" local industry would do a great dis-service to the long-term prospects for the soundness of the Nigerian economy, however attractive the superficial short-term benefit might appear.

Chairman : R. A. Clarke

Members : J. E. B. Hall
D. W. Miller
E. C. Ealey
H. A. G. Acton
T. A. Odutola

Lagos, 30th May, 1956.

APPENDIX

APPLICATION FOR RELIEF FROM IMPORT DUTIES OR PROTECTION

A. INITIAL APPLICATION

1. Name of individual or company with particulars, including nationality, of directors or partners.
2. Address of registered office and of place of manufacture (or place where service provided).
3. Whether affiliated to any company outside Nigeria with particulars.
4. Whether in receipt of any direct form of assistance from an official body within Nigeria (e.g., loan from Industrial Loans Board, etc.).
5. Types of goods manufactured (or service provided) and whether for domestic market or for export.
6. When manufacture or service began or when it is expected to begin.
7. Capital invested.
8. Details of numbers employed in administration, production, sales, etc., giving numbers of Nigerians and non-Nigerians in each category.
9. Details of training schemes, if any, for Nigerians.
10. Local materials used in manufacture or providing service.
11. Imported materials used in manufacture or providing service stating countries of origin.
12. (a) If application is for relief of import duties on capital goods, state goods and estimated total amount of relief sought.
(b) If application is for relief of import duties on manufacturing materials or materials necessary to provide service, state materials, duration, extent and estimated cost of relief sought:—
(i) in current year
(ii) provisionally in subsequent years where appropriate.
(A Note.—Claimant should notify Committee if any significant changes in these estimated costs are subsequently anticipated).
- (c) If application is for imposition of protective duties upon comparable imported products, state products, duration and extent of protection sought.
13. Selling price of articles manufactured, i.e., wholesale price ex-factory and typical retail prices (existence of standard price schemes should be mentioned if applicable).
14. (a) If relief from import duties is granted would benefit be passed on to the consumer if so how? (e.g., by improved quality, reduced prices, absorption of increased costs without price rises, etc.).
(b) If benefit not passed on to the consumer to what purpose would relief be put?
15. Any additional information in support of application (e.g., plans for expansion, difficulties encountered, existence of higher duty on materials than on finished product, whether other persons engaged in same industry enjoy relief, etc.).

B. SUGGESTIONS FOR FURTHER INFORMATION TO BE PRODUCED TO COMMITTEE

1. Latest audited balance sheet.
2. Break-down of ex-factory price showing production costs and how apportioned.
3. Amounts and approximate values of
 - (a) local materials
 - (b) imported materials
 used in manufacture or in providing service.
4. Proportion of costs represented by import duties on materials in respect of which relief is claimed.
5. Possibilities of new markets, extended use of local materials, etc.

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