French Special Temporary Compensation Tax on Imports:
Decision taken by the Contracting Parties

Under a French Decree of 17 April 1954 a special compensatory tax was introduced on certain imported goods when imported into the French customs territory. (This tax is levied on products which have been recently liberated from quantitative restrictions when imported from OEEC member countries.) The Italian Government, in a statement submitted in July 1954, indicated that, in their view, this measure did not appear to be in conformity with the requirements laid down in Article II:1(b) of the General Agreement, which forbids the application of charges of any kind on imported goods for which duties have been bound under the Agreement. According to the Italian statement, the Decree in question authorized the application of the compensatory tax to 162 items of the French customs tariff on which the duties have been bound under GATT. In the opinion of the Italian Government this measure should have been the object of a request for a waiver of obligations under Article II.

The Contracting Parties have considered the matter and the following is the full text of a Decision which they have adopted unanimously.

"Having considered the complaint submitted by the Italian Government regarding a special temporary compensation tax imposed by the French Government on certain goods imported into its customs territory;

"Having examined carefully, in the light of the provisions of Articles I and II of the General Agreement, the circumstances in which the French Government introduced the tax;

"Having heard the explanation given by the French Government that its purpose has not been to replace the incidental protection afforded by the maintenance of quantitative restrictions under Article XII of the General Agreement by additional tariff protection, but solely to resort to a temporary and transitional device designed to facilitate the removal of quantitative restrictions on imports into France of the goods affected from the other countries members of the Organization for European Economic Co-operation that the French Government would otherwise have felt entitled, under the provisions of the said Article XII, to maintain these restrictions; and that there was no question of charging the tax on any imports for which these restrictions were maintained;
the Contracting Parties have reached the following conclusions:

(1) whatever may have been the reasons which motivated the French Government's decision, and whatever may have been the French Government's interpretation of the relevant provisions of the General Agreement in respect of many of the goods affected the tax has increased the incidence of customs charges in excess of maximum rates bound under Article II, and the application of the tax introduces, in respect of the products affected, an increase in the incidence of preferences in excess of the maximum margins permissible under Article I;

(2) it follows that the action of the French Government justifies the invocation of the provisions of Article XXIII and that any contracting party whose trade is adversely affected has grounds to propose under paragraph 2 of that Article such compensatory action as it may think appropriate for authorization by the Contracting Parties.

The Contracting Parties regret, in view of the foregoing, that the French Government should have decided to impose the tax without first presenting its case to them for their consideration.

The Contracting Parties

Take note of the action taken on 16 November 1954 by the French Government to reduce the incidence of the tax for a number of goods;

Take note further of the Declaration in which the French Government:

(a) has undertaken to remove the tax as soon as it is possible to do so;

(b) has expressed its firm intention of adopting definite measures to assure effective progress towards a more liberal system of trade;

Instruct the Ad Hoc Committee on Agenda and Intersessional Business to follow closely the measures taken by the French Government to implement the undertaking referred to in paragraph (a) of the above-mentioned Declaration;

Recommend that the French Government take steps to reduce the present degree of discrimination against the trade of contracting parties whose exports are subject to the tax but to which the liberalization measures taken by the French Government do not apply;
Call upon the French Government to report to the Ad Hoc Committee on the measures taken by it to implement the undertaking and recommendation referred to above, the first report to be communicated to the Executive Secretary before 1 April 1955 and circulated forthwith to all contracting parties; and to participate in any consultations which the Ad Hoc Committee may initiate at the request of any contracting party or contracting parties;

Decide to review this matter at the Tenth Session in the light of progress achieved in carrying out the aforesaid undertakings of the French Government and recommendation of the Contracting Parties."