In the past ten years there have been several attempts to tackle the problem of avoiding, through inter-governmental action, the adverse effects of restrictive business practices on international trade. The subject was dealt with in Chapter V of the Havana Charter. It has been discussed on several occasions in the United Nations Economic and Social Council and other inter-governmental bodies. It was brought up at the ninth session of the CONTRACTING PARTIES to GATT when the operation of the General Agreement was reviewed, and further discussions were held in the GATT Intersessional Committee.

At their twelfth session in 1957 the CONTRACTING PARTIES instructed the GATT secretariat to collect and analyse all the available material concerning any inter-governmental agreements which have been prepared or entered into since the end of the Second World War and which are intended to prevent or counteract the harmful effects of restrictive business practices in international trade. For this task the Executive Secretary engaged the services of Professor J. L'Huillier of the University of Geneva. This publication - Restrictive Business Practices1 - reproduces in full the memorandum, prepared by Professor L'Huillier with the assistance of Mr. C.A. Junod of Geneva, which was submitted to the CONTRACTING PARTIES at their thirteenth session in November 1958.

In order to complete the historical narrative it should be added that at their thirteenth session the CONTRACTING PARTIES adopted a Resolution which recognizes that the activities of international cartels and trusts may hamper the expansion of world trade and the economic development of individual countries, thereby interfering with the attainment of the objectives of the General Agreement on Tariffs and Trade. The Resolution also recognizes that international co-operation is needed to deal effectively with such practices. Under the terms of the Resolution the CONTRACTING PARTIES decided to appoint a group of governmental experts to study and make recommendations as to any action the CONTRACTING PARTIES should take to deal with restrictive business practices in international trade. The CONTRACTING PARTIES will consider the experts' report in 1960.

Part I - Restrictive Business Practices in Economic Life

After examining the origin and underlying causes of restrictive business practices, the authors analyse the main types of restrictive business practices. They deal successively with such practices whose aim is:

- to influence prices or conditions of sale, purchase or lease;
- to restrict output, production capacity and production lines;
- to allocate markets;
- to set up joint sales or purchasing services or to pool profits;
- to hinder the development or the exploitation of technical processes, or unduly to extend the use of rights arising out of patents, trade marks, etc.;
- to eliminate outside competition.

The next chapter describes the arguments most frequently used in support of, or against restrictive business practices, and attempts to evaluate the effectiveness of such practices.

Part II - The Status of Restrictive Business Practices under Domestic Legislation

This part of the report, the authors state, is not intended to draw up an exhaustive list of national regulations governing the limitation of free competition by private enterprises. The sole purpose is that the study of present efforts made at international level should benefit from experience gained in the field of domestic legislation and at the same time that there should be some indication as to how the methods thus used may already affect practices which restrain international trade.

As this study does not purport to lay the foundations of a new set of cohesive regulations, an attempt is made to bring out the various methods used in dealing with the various types of restrictive business practices.

The first chapter is devoted to those provisions for the collection of information on such practices. Next, an examination is made of repressive or control measures in connexion with restrictive business practices; first, viewed independently of the nature of their consequences, and second, from the point of view of their alleged harmful effects.

Then, two brief chapters follow: the one devoted to a description of the implementing procedures and the sanctions which the above-mentioned measures provide; the other, to governmental encouragement to certain restrictive business practices. Finally, an analysis is made of the scope of national regulations with restrictive practices in so far as they affect international trade.
Part III - Attempts made since 1945 to achieve International Control of
Restrictive Business Practices affecting International Trade

This part of the study deals with:

(a) the provisions of Chapter V of the Havana Charter;

(b) the draft rules of agreement proposed by the "ad hoc" Committee on
Restrictive Business Practices of the United Nations Economic and
Social Council;

(c) the draft convention prepared by the Council of Europe;

(d) the provisions of the Treaties establishing the European Coal and Steel
Community and the European Economic Community;

(e) the examination of the problems of restrictive business practices by
the CONTRACTING PARTIES to GATT.