The CONTRACTING PARTIES have heard statements in plenary session concerning the complaint by Norway to the effect that the Federal Republic of Germany is discriminating, contrary to GATT obligations, against exported Norwegian sardines (Brisling).

Mr. Knut Thommessen, Norway, said that the Federal Republic of Germany was discriminating in three different ways against "Norwegian Sardines" (Brisling) and that in the view of the Norwegian Government these measures were inconsistent with the GATT. Summarizing Mr. Thommessen's remarks, it is stated by the Norwegian Government that:

(a) Customs: the German customs duty today is 14 per cent ad valorem on sardines (Clupea pichardus) as against 25—28 per cent respectively on the Norwegian products (Clupea sprattus and Clupea harengus);

(b) Import Tax: the Norwegian products are charged 6 per cent ad valorem against 4 per cent for the competing imported products (Clupea pilchardus) and 4 per cent for similar products made in Germany;

(c) Discrimination: the German authorities discriminate with regard to their import quota restrictions. Sardines (Clupea pilchardus) have been placed on the free list as from 1 April 1952, but the Norwegian products are still subject to quantitative restrictions.

The Norwegian Government, said Mr. Thommessen, consider that points (a) and (b) above are not consistent with Articles I and III of the GATT; point (c), he said, was inconsistent with Article XIII(1). The Norwegian case, he said, was based on the firm conviction that Norwegian "sardines" from Clupea sprattus and Clupea harengus and sardines made elsewhere from Clupea pilchardus are "like products" in the meaning of GATT and that therefore the Norwegian products should be accorded the same treatment as a consequence of the most-favoured-nation provisions of the GATT. Ever since the Norwegian exports of these products to Germany started in 1880 until 1951 (with an exception in the years between 1923 and 1927) the Norwegian products were charged with the same rate of duty as the competing products from Clupea pilchardus. At the Torquay tariff negotiations in 1951 the Norwegian delegation claimed that the concessions they obtained from Germany on the Norwegian products were paid for on the express understanding that Germany should not in
subsequent negotiations discriminate in favour of sardines from clupea pilchardus. This was, nevertheless, done by the German Trade Agreement with Portugal which was concluded in the latter part of the same year and where the lower rate of 14 per cent ad valorem was stipulated for sardines from clupea pilchardus. By concluding this agreement Germany have, in the Norwegian view, nullified the concessions paid for by Norway at the Torquay conference.

In reply, Mr. Werner Hagemann, Federal Republic of Germany, said that his government regretted that it could not accept the Norwegian point of view that the different customs treatment of sardines on the one hand and sprats and small herrings constituted a discrimination in the sense of the most-favoured-nation clause. He did not agree that the Norwegian products on the one hand and sardines on the other hand were "like products". He pointed out that at the Comité International de la Conserve (Bruxelles, 1949), the delegations of France, Portugal, Spain, Morocco, Belgium and of the Commonwealth asked the representatives of F.A.O. to reserve the term "sardines" exclusively for the type clupea pilchardus. For this reason the German tariff as well as the tariffs of other countries maintained separate positions for these items. The German delegation, said Mr. Hagemann, also maintained that the other points in the Norwegian complaint were not justified.

The delegate of Denmark, Mr. Gunnar Seidenfaden, said that his country was in a similar position to that of Norway. The delegate of France, M. Lecuyer, protested against the Norwegian statement and said that the term "sardine" applied solely to clupea pilchardus. He said that in France legal sanctions can be invoked against the misuse of the term sardine, sprat and small herring, respectively.

Mr. Stig Sahlin, Sweden, said that the Norwegian complaint was in conformity with GATT rules. The dispute should not be regarded on the basis of "like" products but on the basis that the treatment of brisling by Germany results in a less favourable treatment of a Norwegian product which, looked upon from a commercial point of view, must be considered as directly competitive to a similar Portuguese commodity.

The Canadian, Czechoslovak and Indian delegates supported the Norwegian request for a working party to study this case.

The Chairman said that in view of the general wish expressed the matter would be referred to a working party to be set up later to go into this and other complaints.