Background

At the Sixth Session the delegates of the Netherlands and Denmark, supported by the delegates of Italy, New Zealand, Norway, Australia, France and Canada, complained that the effect of the restrictions on imports introduced by the United States under Section 104 of the United States Defense Production Act constituted a nullification of impairment of concessions granted by the United States within the meaning of Article XXIII and that the restrictions constituted an infringement of Article XI. The restrictions went into effect on 9 August 1951. The CONTRACTING PARTIES recognized that the complaints were justified, but in view of the serious efforts being made by the Executive Branch of the United States Government to have Section 104 repealed, the CONTRACTING PARTIES agreed to leave the matter on the agenda. Efforts to have Section 104 repealed have proved unsuccessful.

When the United States Defense Production Act was renewed in July 1952 Section 104 was retained with certain amendments. Subsequently, pursuant to these amendments, the United States Government introduced several changes in the application of restrictions on dairy products which had the effect of moderating their severity.

Discussion

The CONTRACTING PARTIES heard statements by the delegates of the Netherlands, New Zealand, Denmark, Canada, Italy, Cuba, Australia, United Kingdom, India, Pakistan, Czechoslovakia, South Africa and the United States, and took the decisions which are set out at the end of this release. (The statements by the delegates of the Netherlands, New Zealand, Denmark, Canada, Australia and the United States are set out in full in the release which follows: GATT/91).

M. A. Di Nola, Italy, said that his Government recognized that the recent United States measures had reduced some of the damage caused to Italian cheese exports to the United States. But these measures were not entirely satisfactory for certain special types of cheese were still subject to restrictions and prevented the full quantities available from being absorbed in the United States market. He stressed that the damage done to Italian exports could not be ignored, particularly in creating the element of uncertainty for exporters. It was very unsatisfactory for Italy that such import restrictions made it impossible for Italy to reap the fruits of her export efforts and it was to be hoped that the United States Government could adapt its import policy to allow Italy to develop her export products, in particular so as to reduce her dollar shortage and ultimately to eliminate United States financial aid.
Mr. Kurt Thommessen, Norway, said that while exports of Norwegian cheese to the United States did not represent a great part of Norway's dollar earnings, great efforts had been made in recent years to increase the dollar market as a whole. The United States import restrictions, he said, had raised a barrier to further Norwegian efforts, for their effect was to discourage exporters as a whole. These measures had in fact hindered the Norwegian Government's efforts for a dollar drive. Regarding the ultimate possibility of compensatory action, Mr. Thommessen supported the Canadian delegation in approving the request of the Netherlands for authority to impose certain reductions on its imports from the United States.

Mr. Vargas Gomez, Cuba, said that while the partial relaxation of the United States restrictions should be welcomed, it was clear that on a point of principle the action taken was not sufficient. Although Cuba was not directly affected by the United States restrictions, it was essential he said to recognize that the matter had an important bearing on the future administration of the GATT. For this reason the Cuban Government would much prefer to see that the United States should continue to consider the possibility of repealing the Section of the Act in question.

Mr. J. Leckie, United Kingdom, said that although the direct effect of the United States restrictions on United Kingdom export trade was not a material factor, he wished to underline the wider implications which were of fundamental importance. It was generally recognized, he said, that the provisions written into Section 104 were not in conformity with the GATT. Certainly efforts had been made to repeal these provisions and he regretted the efforts had not been more successful; in fact, the basic objection to the legislation had not been removed. It was entirely understandable, he said, that certain countries considered they were justified in applying to the CONTRACTING PARTIES for authority under Article XXIII to suspend concessions. But compensatory action of this kind provided no really satisfactory solution. He therefore joined other contracting parties in urging the United States to continue their efforts to have Section 104 repealed.

Turning to the wider aspects, Mr. Leckie said that much effort had been expended by governments and traders to develop the United States market, and special risks had been taken. In this connection, one of the particular difficulties with which governments were faced was the threat of protective action by the United States Government under pressure from United States domestic interests. In this type of legislation exporters saw their fears confirmed concerning the impossibility of developing the United States market. Not only had it a discouraging effect on exporters, it also retarded the realization of an equilibrium in trade and payments without which, said Mr. Leckie, GATT can never function as intended by those countries, including the United States, which framed it.

Mr. B.P. Adarkar, India, said that although India did not export cheeses to the United States, she had an interest in exporting oils, coconut products, and peanuts. Although not raising a formal complaint, India was nevertheless deeply interested. Referring to the need to maintain the sanctity of GATT, Mr. Adarkar said that it was important to avoid the impression of GATT as giving
one law for the "big" and another law for the "small" countries. Mr. Adarkar joined other delegates in stressing how important it was to maintain the value of the tariff concessions for those countries which were trying to increase their exports to the dollar area.

Mr. Aziz Ahmad, Pakistan, drew attention to two points. First, ever since this problem came before the CONTRACTING PARTIES the United States Administration had been alive to the matter. In general it was agreed that the Administration had tried to mitigate the difficulties as far as possible - but not so far as to eradicate them. Secondly, he stressed the wisdom of the CONTRACTING PARTIES in allowing sufficient time for bilateral consultations to be held. The Pakistan delegation hoped that further time would be allowed for the United States to remove these restrictions altogether.

Dr. K.V. Svec, Czechoslovakia, said that he was concerned with the principle involved: and so was the general public. Once this kind of restriction was allowed the whole future of international co-operation was threatened, he said. This was one item in a chain of events showing that the United States was not observing their international obligations. The Czechoslovak delegation would support the parties injured by these import restrictions, both as to the specific injuries and on the grounds of general principles.

Dr. P.R. Botha, South Africa, said that Section 104 continued to cause both direct and indirect damage to many contracting parties as well as to the principles and ideals of all countries concerned with the GATT structure. The South African Government regretted that it was once again necessary to discuss the matter, expressed sympathy with the contracting parties directly affected, and admired the patience with which these countries have borne up under the damage done to them under Section 104.

At the end of the discussion the CONTRACTING PARTIES agreed with the following summary and proposals made by the Chairman:

1. There was a general consensus of opinion that it was regrettable that the United States had not repealed the measures in question and was still infringing the articles of the GATT.

2. They had taken into consideration the statements made by certain delegations reserving their rights to take compensatory measures if the United States restrictions were not lifted.

3. To take compensatory measures was not a satisfactory method of approach, in that they result in a reduction of trade. The general view was that the only satisfactory solution was for the United States Government to lift the restrictions, and thus to avoid compensatory measures.

4. The item will remain on the agenda and the CONTRACTING PARTIES will expect a report from the United States at the next Session.
5. If one or more countries feel it necessary to take compensatory action it will be necessary to call a Special Session to consider such measures under Article XXIII:2.

6. A working party will consider during this Session, the Netherlands proposal to restrict its imports of United States wheat flour as a compensatory measure.

7. A formal Resolution on the whole matter will be considered at a later meeting of this Session.