GENERAL AGREEMENT ON TARIFFS AND TRADE

Seventh Session of the Contracting Parties

Complaint by Norway concerning Treatment by Germany of Sardines (Brisling): Recommendation of the CONTRACTING PARTIES

The CONTRACTING PARTIES have completed action, at this Session, on the complaint by Norway concerning the treatment by Germany of Sardines (Brisling) and have made certain recommendations which are set out below.

Earlier in the Session the CONTRACTING PARTIES considered in plenary meeting a complaint by Norway to the effect that the Federal Republic of Germany is discriminating, contrary to GATT obligations, against exported Norwegian sardines (Brisling). The Norwegian delegate, on behalf of his government then stated that there were three aspects to the complaint:

(a) Customs: the German customs duty today is 14 per cent ad valorem on sardines (Clupea pilchardus) as against 25-20 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) Quantitative Restrictions: 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 considered that points (a) and (b) above were not consistent with Articles I and III of the GATT; point (c) was considered to be inconsistent with Article XIII:1.

The views of the Norwegian and German delegates, expressed in plenary sessions and the decision to submit this question to the Panel on Complaints were set out in press release GATT/80.

The Panel on Complaints has "investigated in accordance with Article XXIII the complaint of Norway concerning the treatment by Germany of imports of preparations of Clupea sprattus and Clupea harengus."
The Panel agreed that they were not called upon to decide whether the preparations of Clupea pilchardus, Clupea sprattus and Clupea harengus had generally to be treated as "like products" within the meaning of the GATT.

The Panel concluded that the evidence produced was not such as to warrant a finding that the measures taken by the German Government in giving more favourable treatment to the preparations of Clupea pilchardus were inconsistent with Article I:1 and Article XIII:1.

On the other hand the Panel found that as a result of these measures (for instance the more favourable treatment by Germany of preparations of Clupea pilchardus) the value of the tariff concessions on Clupea sprattus and Clupea harengus, which Norway obtained from Germany in the Torquay tariff negotiations, had been impaired, because - in the view of the Panel - Norway had reason to assume during the Torquay negotiations that (i) preparations of the type of clupeæ in which Norway was interested would not be less favourably treated than other preparations of the same family and (ii) this situation would not be modified by unilateral action of the German Government. (This refers to the German trade agreement with Portugal, concluded in 1951, after the Torquay negotiations: in this agreement the lower import duty of 14 per cent ad valorem was stipulated for preparations of the Clupea pilchardus).

In the light of the findings of the Panel the CONTRACTING PARTIES recommend (1) that the Federal Republic of Germany consider ways and means to remove the competitive inequality between the preparations of Clupea pilchardus and those of other varieties of the clupeoid family which may in practice exist: the competitive inequality being due to changes introduced in 1951 and 1952 as regards (a) the imposition of import duties and taxes and (b) the relaxation of quantitative restrictions on imports, and

(2) that the Government of the Federal Republic consult with the Government of Norway with respect to the results of their consideration of ways and means to remove the competitive inequality, and the two parties report to the CONTRACTING PARTIES not later than the beginning of the Eighth Session.

On behalf of the Federal Republic, Mr. Werner Hagemann said that his Government accepted the Recommendation and would do their best to find ways and means to come to terms with the Norwegian Government on this matter and, after consultations had been held, to reach the results hoped for in the report of the Panel.

After the CONTRACTING PARTIES had adopted the Panel's report, Mr. Knut Thommessen, Norway, thanked the German representative for accepting the Recommendation and expressed the hope that the consultations will result in early agreement so that both parties can report at the next Session that the case has been satisfactorily settled.