EXISTING MANDATORY LEGISLATION

Information received from Governments

Addendum

In reply to the request of the CONTRACTING PARTIES that governments should submit information on their existing mandatory legislation, replies have been received from the delegations of Germany, South Africa and the Federation of Rhodesia and Nyasaland.

The Federation of Rhodesia and Nyasaland replied that there is no Federal mandatory legislation requiring action inconsistent with the provisions of Part II of the General Agreement.

The delegation of the Union of South Africa has replied that as far as the delegation is aware the only South African legislation concerned by the request of the CONTRACTING PARTIES is section 89(i) of the Customs Act. Under this legislation (vide document L/81/Add.2) the quantity qualification for the determination of Value for Customs Purposes (usual wholesale quantities) is not in keeping with either of the quantity qualifications in paragraph 2(b) of Article VII. The delegation has requested their Government to advise them of any other legislation which may come within the scope of the request of the CONTRACTING PARTIES.

NOTE BY THE GERMAN DELEGATION

Definitive Application of the General Agreement

The Problem of Existing Mandatory Legislation

In accordance with the decision of the CONTRACTING PARTIES regarding the problem of the definitive application of the General Agreement taken at the Twenty-seventh Plenary Meeting held on 22 December, 1954, the German delegation hereunder states the internal mandatory laws still being applied in the Federal Republic of Germany pursuant to paragraph 1a ii) of the Torquay Protocol of Application. This summary is based on paragraph 5 of GATT Doc.L/299 dated 21 December 1954.

The laws stated hereunder have a mandatory character. The German delegation would like, however, to point out that it shares the opinion, maintained also by other delegations at the Twenty-seventh Plenary Meeting, that for the validity of the Protocol of Application only its wording is decisive, which refers to existing legislation, but not to mandatory legislation.
a) **Quantitative Import Restrictions Except for Balance-of-Payments Reasons**

Law No. 53 of the Allied Military Government (Revision) Concerning Foreign Exchange Restrictions and Control of the Exchange of Commodities, dated 19 September 1949, and First Regulation under the Foreign Exchange Control Law.

Pursuant to Article I of that law it is, in principle, prohibited to import commodities into the Federal Area. Any import is subject to previous authorization.

b) **Discriminatory and Protective Application of Internal Taxes**

1) **Turnover tax and turnover equalization tax**

   *Parts of the Turnover Tax Law* dated 16 October 1934, and the regulations issued under that law.

   The cases concerned are the following:

   a) exemption from taxation for the delivery of essential raw materials and semi-finished products in the wholesale trade;

   b) reduced tax rate for deliveries of objects not coming under Section 4, No. 4, of the Turnover Tax Law, in the wholesale trade;

   c) reduced tax rate for deliveries of products in the field of agriculture and forestry if delivered by the producer himself;

   d) exemption from the turnover equalization tax, of the results from fishery and hunting of fishermen of German nationality at sea, and of the products which they derive from them.

2) **Tobacco tax**

   *Tobacco Tax Law* dated 4 April 1939:
   reduced tax rates for tobacco products to which a determined part of domestic raw tobaccos has been admixed.

c) **State Trading and Monopolies**

The Federal Republic of Germany has state trading and monopolies for:

1) cereals and vegetable fodder
2) sugar
3) butter, lard, margarine and imitation lard
4) slaughter cattle, meat and meat products
5) ethyl alcohol
6) inflammables.
As regards the goods mentioned under 1) through 4), every importer is obliged to offer goods to be imported, not later than at the moment of customs or frontier clearance,

to the Import and Stocking Office for Cereals and Vegetable Fodder or,
Import Office for Sugar or
Import and Stocking Office for Fats or
Import and Stocking Office for Slaughter Cattle, Meat and Meat Products.

The Import and Stocking Offices are corporations under public law. They are exclusively entitled to take over and sell these goods in case they have been imported into the Federal Republic. If an Import and Stocking Office refuses to take over a commodity offered to it, such commodity is not allowed to be put on the market.

The right of supervision by the Federal Minister of Food, Agriculture and Forestry ensures, i.e., that the import of goods subject to agricultural market regulations takes place in accordance with the same general principles as apply to imports of the private trade.

As regards the products stated under paragraphs 1) through 6) the following legal provisions are in force:

1. Law Concerning the Trade with Cereals and Vegetable Fodder dated 4 November 1950 and the regulations issued under that law;

2. Law Concerning the Trade with Sugar dated 5 January 1951, and the regulations issued under that law;

3. Law Concerning the Trade with Milk, Milk Products and Fats dated 28 February 1951 and the regulations issued under that law;

4. Law Concerning the Trade with Cattle and Meat dated 25 April 1951 and the regulations issued under that law;

5. Law Concerning the Spirits Monopoly dated 8 April 1922; this law involves:
   a) the import monopoly existing in the Federal Republic of Germany for spirits and products derived from spirits;
   b) the granting of a special export price or export reimbursement for the export of spirits and determined products derived from spirits;

6. Inflammables Monopoly Law dated 29 January 1930 insomuch as it concerns the import monopoly for inflammables, existing in the Federal Republic of Germany.