GENERAL AGREEMENT ON
TARIFFS AND TRADE

CONTRACTING PARTIES
Twelfth Session

REPORT OF THE WORKING PARTY ON GERMAN IMPORT RESTRICTIONS

Introduction

1. In June 1957 the Federal Republic of Germany consulted with the CONTRACTING PARTIES under Article XII:4(b) on the import restrictions which it applied under Article XII. When the report of the Consultations Committee on that consultation (L/644, Section VIII) was presented for approval by the CONTRACTING PARTIES at the present Session\(^1\), the German representative made a statement (see Annex) in which he outlined a number of problems faced by the Federal Republic, and announced certain measures of liberalization to take effect successively between the beginning of 1958 and the beginning of 1960. The CONTRACTING PARTIES discussed the statement in the light of the results of the Article XII consultations\(^2\) and established this Working Party on 19 November to consider the statement made by the representative of the Federal Republic of Germany on its import restrictions and to collect and present in an orderly fashion for transmission to the German Government the initial reactions and comments of contracting parties expressed both in the plenary discussion and in the Working Party. The Working Party was constituted of representatives of Australia, Belgium, Brazil, Canada, Ceylon, Denmark, the Dominican Republic, France, the Federal Republic of Germany, India, Japan, Norway, Pakistan, the United Kingdom and the United States, and was under the chairmanship of Mr. L. Cozzi (Italy).

I. Position of Germany with respect to Article XII

2. In discussing the statement of the German delegation, a substantial number of delegations Australia, Canada, Ceylon, Denmark, India, Japan, New Zealand, Norway, Pakistan, the United Kingdom and the United States of America, expressed appreciation of the efforts made by the German Government towards meeting the undertaking which it gave in June. They thought, however, that the conclusion of the Consultations Committee should guide the German authorities in respect of their remaining restrictions. They pointed out that, as the Federal Republic

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\(^1\) The report was approved on 22 November 1957.

\(^2\) See paragraphs 52 and 53 of the Report, L/644, page 94.
was no longer entitled to resort to the provisions of Article XII, the maintenance of restrictions, unless sanctioned by any other provision of GATT, would be in breach of Article XI. If, for special reasons, Germany found it impracticable immediately to eliminate the restrictions but required a certain period for readjustment, it could request consideration by the CONTRACTING PARTIES under the "hard core" waiver Decision of 5 March 1955. If the restrictions which it wished to maintain went beyond the scope of that Decision, the proper course to take would be to apply for a waiver under Article XXV:5.

3. These delegations emphasized that the very structure of the Agreement would be undermined and the balance of rights and obligations between contracting parties upset if the thesis set forth in the German statement were accepted and if Germany continued to maintain restrictions inconsistently with the General Agreement. During the long years of the post-war transitional period contracting parties had been waiting to reap the full benefit of the tariff concessions that had been negotiated, and in the absence of legitimate grounds for restricting imports, the Federal Government should be expected not to impair the value of the tariff concessions it had given. If the Federal Government followed the policy which it now declared, it might well leave other contracting parties no choice but to take action on grounds of nullification and impairment. Some delegations (Ceylon, India, Pakistan) mentioned the satisfactory trade relations that existed at present between their respective countries and Germany but considered that its restrictions should be relaxed.

4. Many delegations (Australia, Canada, Ceylon, India, Japan, Norway, Pakistan, Sweden, United Kingdom, United States) maintained that countries in such a marked positive balance-of-payments situation as Germany's should act in accordance with a "good creditor policy" and in the interest of other countries, by removing its restrictions on imports.

5. In the German statement reference was made to the liberal manner in which the restrictions were being administered and to the increases in imports which showed that there was a controlled expansion of imports rather than a truly restrictive import scheme. A number of delegations (Australia, Canada, Ceylon, Denmark, India, Japan, New Zealand, Norway, Pakistan, United Kingdom, United States) pointed out that under paragraph 2 of Article XII, restrictions should be eliminated when they are no longer justified under that paragraph. While the application of a liberal licensing policy was welcome in circumstances where restrictions could be legitimately maintained, it was no substitute for the elimination of restrictions required under the Agreement. Since the size of a country's imports depended on such dynamic factors as national income and propensity to import, increases in actual imports could be regarded neither as evidence of reduced incidence of restrictions nor as a reason for not abolishing restrictions.
II. Comments on the Reasons for Retaining Restrictions

6. The German delegation in its statement attributed the overall surplus in the German balance of payments to a considerable surplus with European countries, accompanied by an increasingly passive balance with the dollar area, and maintained that in the circumstances discriminatory restrictions were vital for maintaining the structure of European trade and the stability of the European economy and regional payments system. The French delegation shared this view of the German delegation. Other delegations (Australia, Canada, Ceylon, India, New Zealand, Norway, Pakistan, United Kingdom, United States) while recognizing the significance of the German credit and reserve position, stated that this consideration was, however, not relevant to the justification for the maintenance of quantitative restrictions in accordance with the obligations under the GATT. In their view, the present clearing arrangements in the European Payments Union would not be prejudiced by the dismantling of the German import restrictions. Moreover, the elimination of restrictions would clearly not present any threat of a serious decline in the German monetary reserves, the only justification provided under Article XII:2 for the maintenance of balance-of-payments restrictions.

7. Brazil and France, however, were of the view that the regional distribution in the German balance of payments, as well as the agricultural problems referred to below, involved special considerations.

8. With respect to agricultural products, the German delegation had mentioned in its statement a number of considerations justifying the maintenance of restrictions, including the general situation of agriculture in Europe and the current negotiations for a European free-trade area. Other delegations (Australia, Canada, Ceylon, India, Japan, New Zealand, Pakistan, United Kingdom, United States) considered that these were not valid reasons for delaying the removal of restrictions in accordance with the provisions of the Agreement and thought that the arguments advanced by Germany seemed to substantiate their concern regarding the implications of certain provisions of the Rome Treaty. They likewise rejected the contention that since there had been references to the possibility of re-examining the provisions of the Agreement relating to Agriculture, relaxation of controls in that field were not really necessary, or at least could be deferred. Contracting parties were obliged to operate under the Agreement as it stood and not as it might be revised. Two delegations (Denmark and Sweden), however, thought that in so far as a European free-trade area held forth hopes for a solution of the intractable problems of European agriculture, the CONTRACTING PARTIES would be well advised not to take hasty decisions in formulating any legal dispositions until developments in that field could be more adequately taken into account; they considered justified Germany's hesitation in taking measures which might prejudice the discussion of future European arrangements, which in their opinion were far more important to the CONTRACTING PARTIES.

9. Some delegations (Australia, Canada, Ceylon, India, Japan, New Zealand, Norway, United Kingdom, United States), observed that the German statement seemed to imply that the Federal Republic was reserving to itself the unilateral
right to maintain quantitative restrictions whenever it considered that the commercial policies of other contracting parties might be distorting the pattern of international trade. Even if some provisions of the Agreement were not entirely satisfactory, this did not entitle a contracting party to disregard its obligations under the Agreement. Such an approach would undermine the Agreement and prejudice the rights of other contracting parties. Problems created by trade monopolies, subsidies, export duties and other trading practices should be dealt with by measures permitted under the Agreement, some of which were specially designed for the purpose, e.g. customs tariffs, anti-dumping and countervailing duties. The Danish delegation stated that experience had shown that the detrimental effects of surplus disposals and of subsidized exports on the traditional exports of third countries could only in exceptional cases be met by anti-dumping or countervailing duties, and that protective measures taken in some countries have an influence on other countries' ability to abolish restrictions. In its view, a purely legal approach was not sufficient to solve the problems; quota restrictions might be replaced by tariffs or subsidies without the provisions of GATT being infringed but with equally serious harmful effects. One delegation (India) indicated in this connexion that the export duties and export restrictions in other countries could not affect trade or production in Germany.

10. Some delegations (Canada, Ceylon, Denmark, France, India, Pakistan, United Kingdom, United States), also pointed out that any difficulties caused by the invocation of Article XXXV could not be regarded as relevant for the maintenance of import restrictions by Germany. These delegations (except France and the United Kingdom) pointed out that such difficulties might best be solved by the withdrawal of such invocation, not by import restrictions. One delegation (United Kingdom) emphasized that a number of countries, notwithstanding the formal invocation of that Article with respect to a contracting party were applying most-favoured-nation treatment to the latter through direct arrangements.

11. A number of delegations (Australia, Canada, Ceylon, Denmark, India, Japan, New Zealand, Norway, Pakistan, United Kingdom, United States) noted the suggestion in the German statement that a point might be reached where the increase in imports would lead to a breakdown of markets, particularly those of agricultural products. This seemed to imply that the principle of eliminating quantitative restrictions was valid only in so far as such elimination did not affect the pattern of internal production or marketing, or the level of income. Such a limitation was not envisaged in the General Agreement. It was desirable, as the German delegation had itself stated at previous sessions, that in the interest of general productivity and economy of resources marginal producers should be encouraged to improve their efficiency or move to alternative activities. One delegation (Denmark), while not endorsing the application of support policies, referred to the fact that similar policies were pursued by other contracting parties, although by different means, legally more in accordance with the provisions of GATT, but with similar effects.
III. The Question of "existing legislation" and provisional application

12. A number of delegations (Australia, Canada, Denmark, New Zealand, Norway, Pakistan, United Kingdom, United States) were unable to accept the claim that the German Marketing Laws were covered by the qualifying clause in the Torquay Protocol relating to existing legislation. These Laws seemed to them to require that the goods in question (cereals, meat, fat and sugar) be imported under State monopoly, not that imports be restricted. Under paragraph l(a)(ii) of the Torquay Protocol contracting parties are required to apply Part II of the General Agreement, including Article XI, "to the fullest extent not inconsistent with the legislation existing" on 21 April 1951. In their view, this provision applied only in respect of legislation which was of a mandatory character, i.e. which imposed on the executive authority requirements which could not be modified by executive action. This meant that if "existing legislation" left the German Government no discretion but to act contrary to Article XI, the German Government would be entitled to suspend the application of the provisions of that Article to the extent necessary to conform to that legislation. On the other hand, where "existing legislation" gave the Federal Government discretion between action which was in conflict with that Article and action which was consistent with it, then action in accordance with Article XI would not be inconsistent with its national legislation; there would thus be no ground for deviating from Article XI.

13. Should the Federal Government seek to maintain its claim that the Marketing Laws in fact require the maintenance of restrictions inconsistent with GATT provisions, the German delegation should produce the text of the Laws and particulars of the parliamentary discussions and explanatory material relating to the legislation in question to bear out its contention. Should the view be accepted that all action under existing legislation was ipso facto exempt from the Rules of Part II of the Agreement, most contracting parties would be entitled to claim the right to apply or maintain quantitative restrictions irrespective of their balance-of-payments position, and to take many other measures contrary to the provisions of the GATT; this would mean that Part II of the Agreement would have no binding force, and, inter alia, the tariff concessions could therefore be completely nullified with impunity, a situation which would lead to a complete breakdown of the General Agreement.

14. Two delegations (Chile, Sweden) did not agree that the provisions concerning provisional application should be interpreted in the way outlined above. One of these delegations (Sweden) stressed that the exact wording of the Annecy and Torquay protocols was the legal basis for an examination of legislation such as the German Marketing Laws. The question whether such legislation had to be of a mandatory character or not was a special problem that had as yet not been finally settled by the CONTRACTING PARTIES. The German delegation reiterated its view that the "existing legislation" referred to in the Torquay Protocol need not necessarily be mandatory legislation, and that in any case the German Marketing Laws were of a mandatory character.
15. Many contracting parties (Australia, Canada, Ceylon, Denmark, France, India, Japan, New Zealand, Norway, Pakistan, United Kingdom, United States) supported the proposal that, in view of the pressure of business at this Session, this particular question should be referred to the Intersessional Committee, which should report its findings to the Thirteenth Session. One delegation (Sweden) wished to make it clear that the Intersessional Committee, when examining the relationship of the Marketing Laws to the Torquay Protocol, should not take upon itself, in this connexion, to make decisions on how the protocol should be interpreted. The question in principle of "mandatory" or "not mandatory" had to be discussed again and preferably before the revised agreement was ratified, as it was desirable that there should be no ambiguity as to the contents and implications of any reservations made by Governments in connexion with the ratification of the revised agreement.

IV. Comments on the Liberalization Lists

16. Without prejudice to their views on the justification of the German restrictions under the provisions of the Agreement or the Torquay Protocol, a number of delegations offered preliminary comments on the measures of liberalization announced by Germany. Most of the delegations (Australia, Canada, Ceylon, Denmark, India, New Zealand, Norway, Pakistan, United Kingdom, United States) which expressed views considered that the programme contemplated by Germany fell far short of what should be expected of a country in her financial position. Both the scope of the measures and the proposed delay in their implementation were unsatisfactory. Many products on the list would remain under restriction for a further two years. Even then nearly 20 per cent of total imports was to remain under restrictions. Certain processed foodstuffs would also remain restricted although they were so unrelated to agriculture that they could hardly present "hard core" difficulties. Certain delegations also indicated that the selection of the items to be freed involved de facto discrimination in favour of nearby suppliers. This applied, for example, to the liberalization of certain fresh foodstuffs but not the same products in frozen or canned form. Some delegations (Australia, New Zealand) stated that they were concerned not only with this form of discrimination, but also with the intensive discrimination persisted in by Germany in the allocation of quotas for some products which were not liberalized and which were not listed in the present proposal for liberalization.

17. Although it was proposed by the German Government that global quotas should be established for certain agricultural products as from 1960, some delegations (Australia, United States) inferred that even at that time there would be discrimination as between OEEC countries and non-OEEC countries. The statement of policy furthermore seemed to imply that imports of agricultural products from countries outside Europe would be residual. One delegate (India) pointed out that among manufactured goods, cotton and jute fabrics had not been liberalized.

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18. As the statement by the German delegate had been available only two days previously, certain delegations (Belgium, Czechoslovakia, France, Italy) stated that they could not present their views on it until a later time. The French delegation considered that there was no valid reason to apply in the present German case an unusual procedure so rushed that his delegation had not had the necessary time for examining the question closely and to receive instructions from its government. This being so, the French delegation was not in a position to pass a judgment on the question of Germany, being unable to do so with a clear understanding of the matter. The Japanese delegation, in the light of the views expressed by delegations and noted in paragraph 2 above, stated that an opportune time for examining the German restrictions would be when the German Government approached the CONTRACTING PARTIES with a view to availing itself of the procedures mentioned in that paragraph. His delegation, consequently, had abstained from expressing its views on many points at this stage.

19. A substantial number of delegations expressly stated that the Federal Republic of Germany, which was no longer entitled to apply restrictions under Article XII, should be requested to reconsider and revise its import restriction policy accordingly.

20. In concluding the discussion, the German delegation stated that it would convey all the views expressed by other delegates to the attention of its Government, which would no doubt give them its most serious consideration. The German delegate hoped that a solution would be found in the near future to many of the problems that had been referred to in the discussions.

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At the end of the discussion, the Australian, Canadian, United Kingdom and United States delegations informed the Working Party that they had submitted to the CONTRACTING PARTIES the text of a proposed Recommendation to the German Government (See Annex II). The delegations of Ceylon, Japan, New Zealand, Norway and Sweden associated themselves with the proposal.
ANNEX I

GERMAN IMPORT RESTRICTIONS

Statement by the Representative of the Federal Republic of Germany

During the consultations which took place in June this year, the situation was examined which has resulted from the last decision of the International Monetary Fund in respect of the Federal Republic. In the course of these consultations, the representatives of the Federal Republic had set forth the economic difficulties existing with regard to the further extension of the liberalization of imports. In this connexion, it had also been pointed out that, during the past years, the Federal Republic has pursued a liberal trade policy and that it has made continuous progress in reducing import restrictions and discrimination. At the same time also the imports of the Federal Republic have shown an ever-increasing tendency. These facts have been expressly recognized also by the International Monetary Fund. The Consultations Committee has recognized that the Federal Republic is faced with difficult problems in the field of economic policy. It has - in accordance with the decisions of the International Monetary Fund - expressed the view that import restrictions, as far as applied for balance-of-payments reasons, should be removed by the Federal Republic as soon as possible.

The Government of the Federal Republic has examined in detail the result of the consultations and the different aspects of this question. It has decided to take a number of measures for the purpose of further extending liberalization and reducing any discrimination still existing in the import sector. I am now able to inform the CONTRACTING PARTIES of these measures. Before going into details, I would like to refer to some facts and points of view which seem to me to be of importance for appreciating the measures of my Government:

1. During the consultations in June 1957 it was already stated by the German representatives that the existing restrictions and controls were applied in a liberal manner. For almost all products still under control, imports have continuously increased in the course of these last years as is well-known to the CONTRACTING PARTIES.

The following figures will be of interest to the CONTRACTING PARTIES: from 1953 to 1956, imports of liberalized products increased by 73.7 per cent, whereas
imports of products subject to quotas increased by 119.6 per cent. Hence it follows that, properly speaking, there exists a controlled expansion of imports rather than restrictions.

2. I would like to make some remarks regarding the situation of our balance of payments. The General Agreement permits import restrictions to be maintained only for the protection of the balance of payments. Though the International Monetary Fund has stated that the Federal Republic, from an over-all point of view, has no balance-of-payments difficulties, this does not mean that we have no balance-of-payments problem. The contracting parties to the General Agreement are sufficiently aware of the fact that the active balance of payments of the Federal Republic is due to the considerable surpluses in the trade within Europe, whereas the balance of payments in respect of the dollar area shows a more and more passive balance. In spite of this situation, we have carried on our liberalization policy vis-à-vis the dollar area in the course of the last years, though the dangerous surplus in the European Payments Union has still increased. The contracting parties to the General Agreement will understand that this is a problem which affects the bases of the whole of our own trade policy and also of the trade policy of other European countries. The maintenance of the structure of the present foreign trade in Europe and the stability of the economic situation in a large part of Europe are at stake here. Such economic stability in Europe is no doubt in the interest of all contracting parties to the General Agreement, which have derived considerable profit by it during the past years. In spite of this, it is in the line of my Government's trade policy to extend the liberalization of imports as far as possible and to reduce any discrimination that still exists. It cannot be denied that for most countries trade relations with the Federal Republic have been advantageous. Of course, we quite understand the desire to get as many advantages as possible. But it should be taken into account that a point may be arrived at where the increase of imports will lead to a breakdown of the markets. This applies above all to the trade in agricultural products. The result would be that the situation of the countries interested in the German market would then be considerably worse than before.

3. Moreover, I would like to make some further remarks regarding the questions of agriculture. The Federal Republic is maintaining a number of import restrictions in this field. These are, on the one hand, the import controls concerning products subject to the German marketing laws (cereals, meat, fat and sugar). These import controls are applied by the Federal Republic by virtue of the Torquay Protocol and under the reservation made by the Federal Republic in respect of the application of Parts II and III of the revised General Agreement. The Federal Government regrets that it is not able to make a change in the present state of things. On the other hand, a number of import restrictions still exists in respect of agricultural products, which are of importance preponderantly for the trade of the European countries. The present problems of the European economy do not permit us, for the time being, to take any decisions in this respect. I should like to refer here to the Decision of the Council of Ministers of the Organisation for European Economic Co-operation of 17 October 1957, which has been reproduced in document L/745 and was the subject of discussion at the Plenary Meeting of 16 November 1957.
However, it seems to me to be of interest to take into account also the general situation of agriculture in Europe and in many other countries of the world. The paramount importance of agriculture for the different national economies has, in most cases, led to the formation of agrarian systems the purpose of which is to secure the existence of agriculture and to maintain the stability of the markets in the interest of the whole national economy. These problems have been particularly pointed out on pages 32 and 238 of the Annual Report of GATT - International Trade 1956. All these agrarian systems involve the problem of their consistency with the provisions of the General Agreement. The measures of the different countries are partly consistent with the rules of the General Agreement - in particular where a subsidization of producers is concerned - and partly waivers and special arrangements have been provided for in the General Agreement for this purpose. However, the economic effect of these systems is in all cases the same, namely the preservation of national agriculture and its protection against entirely different conditions of production and competition abroad. I believe that it has been more and more recognized that the pertinent provisions of the General Agreement relating to this important field are no longer realistic and need to be revised. Considering the present world situation, it appears more and more doubtful whether the import policy in the field of agriculture should be considered mainly from the point of view of the balance of payments, as is done under the rules of the General Agreement. Indeed, in most cases there is no intrinsic connexion between the balance of payments and the situation of agriculture. Everybody will recognize this when considering the situation in his own country.

As has turned out in the meantime, the review of the General Agreement carried through two years ago did not sufficiently take into account the development in the world.

I should like still to point out here another important question. As regards the subsidies granted for the exportation of agricultural products, the review of the General Agreement has not brought about a satisfactory solution. But the very fact of the world-wide application of export subsidies of all kinds to agricultural products is one of the reasons why, in the Federal Republic and in many other countries, import controls are necessary in order to avoid prejudicial disturbances in the markets. The suggestions submitted by the Australian delegation in connexion with the discussion about the European Economic Community, to the effect that the pertinent provisions of the General Agreement should be revised, seem to me to be a symptom of the fact that the new situation is no longer consistent with the basic rules of our Agreement.

As regards the liberalization of industrial products, I should like to point out another special problem. The trade policy and the commercial methods of our partners in trade have a considerable influence on our possibilities to abolish import controls. If, in individual countries, raw materials are subject to monopolies or export taxes, it is particularly difficult to release the importation of products made of such raw materials. I should like to mention, in this connexion, also the fact that the invocation of Article XXXV of the General Agreement by a number of contracting parties against other contracting parties may
largely distort-competitive conditions and cause considerable difficulties with regard to the liberalization of determined products. On the occasion of the preceding sessions, the contracting parties to GATT recognized the importance of this problem and pointed out the necessity to solve it. My Government hopes that a satisfactory solution to this problem will be found as soon as possible in the interest of all contracting parties. This, too, is a problem the importance of which, apparently, could not be foreseen at the time when the rules of GATT were established.

I hope that these preliminary remarks may have contributed to evoke among the contracting parties to GATT some understanding of the problems and difficulties which existed for my Government when it took its decisions.

I now want to make known these decisions in detail:

I. On 1 January 1958, the Federal Republic will liberalize a considerable number of products for all contracting parties to GATT. Altogether, 762 items of the Statistical Index of Commodities of the Federal Republic are concerned. Of this total amount, 197 items come under the sector of food and agriculture and 565 items under the industrial sector. The import value of these products in 1956 amounted to about 1.3 billion DM, that is 5.6 per cent of total imports. The products concerned are contained in List I, which I have just submitted to the secretariat and which have been distributed.

II. For another amount of products, contained in List II, which has likewise been submitted, my Government has envisaged the full liberalization within a transitional period extending up to two years. This list contains 331 items of the Statistical Index of Commodities of the Federal Republic. Of this amount, eighty-eight items come under the sector of food and agriculture and 243 items under the industrial sector. The import value of these products in 1956 amounted to about 600 million DM, that is 2.1 per cent of total imports.

III. The Federal Government has decided to take the following measures in order to remove or relax the discrimination in the treatment of some contracting parties to GATT in the case of products still subject to import quotas. The Federal Republic is prepared, as from 1 January 1960, to grant global quotas for non-liberalized agricultural products to the contracting parties to GATT not being members of the OEEC, but, as far as Europe is concerned, only to countries not having a governmental foreign trade monopoly.

As regards countries being members of the OEEC, the Federal Government is not in a position, for the time being, to deviate from the present system, considering the fact that negotiations on the European Free Trade Area are being conducted in Paris at present. These negotiations will, no doubt, lead to the conclusion of arrangements on the exchange of agricultural products in Europe, which will correspond somewhat more to the present status of relations in the field of agriculture or resemble the system of agricultural relations in the European Economic Community. The Federal
Government would like to avoid, moreover, arrangements which might affect the foreign exchange balances of countries being suppliers of the Federal Republic and which later on may have to be revised.

IV. For all non-liberalized products of the industrial sector, the Federal Government will consolidate the different global quotas hitherto applied separately to the soft-currency area and to the dollar area, as from 1 July 1958, into uniform global quotas so that the present discrimination will be removed.

5. These are the measures which my Government, after carefully considering the situation, is prepared to take. On close examination, the contracting parties to GATT will recognize that considerable progress will be made by these measures in the removal of still existing import restrictions and discrimination. I should like to point out that with regard to private trade the new existing restrictions vis-à-vis the dollar area will be reduced by about 75 per cent as the effect of the new measures. The import restrictions and controls which then will continue to exist apply to a relatively small part of German imports only. In the field of food and agriculture, only 379 items of the Statistical Index of Commodities, with an import value of 4.6 billion DM, that is 16.5 per cent of total imports, will remain subject to control. Of this amount, 177 items alone come under the sector of commodities subject to the marketing laws, with an import value of about 3.1 billion DM, that is 11 per cent of total imports of the Federal Republic.

In the field of industrial products, only 165 items will remain subject to import controls. The import value of these products amounts to 590 million DM, that is 2.1 per cent of total imports. 0.6 per cent of these imports are subject to state-trading.

Accordingly, the total sector of imports still subject to control comprises 537 items of the Statistical Index of Commodities, with an import value of about 5.2 billion DM, that is 18.6 per cent of total imports.

It may be that the measures determined upon by my Government do not, in all respects, come up to the expectations of the contracting parties to GATT. However, my Government expresses the hope that the CONTRACTING PARTIES to GATT may understand the particular problems the Federal Government is faced with. On the other hand, may I assure you that the Federal Government fully appreciates the wishes and the standpoint of the other contracting parties to GATT. My Government hopes that it will be possible, in the further course of a thoughtful and constructive co-operation under the General Agreement, to find also solutions to problems which are still unsolved or seem to be insoluble at the present time.
ANNEX II

Draft of

Recommendation by the CONTRACTING PARTIES
to the Federal Republic of Germany on its Import Restrictions

THE CONTRACTING PARTIES

HAVING HEARD the statement of the German delegation announcing further measures of liberalization, and

NOTING that the Federal Republic of Germany is no longer entitled to operate under Article XII and that in the view of a substantial number of delegations its restrictions are not justified under other provisions of the Agreement,

RECOMMEND

1. That the Government of the Federal Republic of Germany reconsider its commercial policy and revise its programme with a view to eliminating its remaining import restrictions as soon as possible.

2. That if for any special reasons the German Government then considers that it cannot now eliminate its remaining restrictions it should make use of the agreed GATT procedures at the next meeting of the Intersessional Committee in order to bring its import policy into conformity with its obligations under the General Agreement; and

3. That if the Government of the Federal Republic of Germany maintains the view that certain of its import restrictions are justifiable under paragraph 1(a)(ii) of the Torquay Protocol it should present to the Intersessional Committee the necessary information so that the relationship between the provisions of the German marketing laws and the Torquay Protocol may be clarified. In that event the Intersessional Committee should report its findings to the Thirteenth Session of the CONTRACTING PARTIES.