GERMAN IMPORT RESTRICTIONS

Recommendation adopted by the Intersessional Committee on 2 May 1958

Noting that Article XI of the General Agreement provides for the elimination of quantitative restrictions on imports and that the Federal Republic of Germany maintains quantitative restrictions on the import of a range of industrial and agricultural products including some agricultural products which are subject to the Agricultural Marketing Laws;

Noting that the Federal Republic of Germany is no longer entitled to maintain import restrictions for balance-of-payments reasons under Article XII;

Noting that there is no justification under other Articles of the Agreement for Germany's remaining import restrictions or for their discriminatory application;

Having examined the contention of the Government of the Federal Republic of Germany that, in accordance with the Torquay Protocol, it is entitled to restrict imports of certain agricultural products specified in the Agricultural Marketing Laws; and

Considering

(a) that this contention cannot be accepted by most contracting parties; and

(b) that even if it could be sustained, contracting parties which agreed to the accession of the Federal Republic under the Torquay Protocol could not reasonably have expected that the terms of that Protocol would have the effect, or would be interpreted to have the effect, of excluding Germany's trade in agricultural products covered by the Agricultural Marketing Laws from the operation of the General Agreement and that therefore the action of Germany in maintaining import restrictions on these products nullifies and impairs the reasonable expectation of contracting parties as to the benefits which would follow from the acceptance by the Federal Republic of the obligations of the General Agreement and jeopardizes the attainment of the objectives of the General Agreement;

The discussion and vote on this Recommendation are recorded in IC/SR.38.
The INTERSESSIONAL COMMITTEE:

Expresses its regret that the Government of the Federal Republic has not considered it possible so far to eliminate its remaining import restrictions;

Urges that the Government of the Federal Republic reconsider its position on this matter in the light of the above considerations and report to the Thirteenth Session what action it has taken to eliminate the remaining import restrictions and that if on re-consideration the Government of the Federal Republic continues to believe that there are special reasons why it cannot eliminate certain of the import restrictions it should make use of agreed procedures to reconcile its position with the provisions of the General Agreement; and

Recommends that at the Thirteenth Session the CONTRACTING PARTIES would be warranted in finding that further delay by the Government of the Federal Republic in removing the remaining import restrictions or in reconciling its position with the provisions of the General Agreement would constitute a circumstance serious enough to justify the application of the provisions of paragraph 2 of Article XXIII.